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Supreme Court of the United States

OCTOBER TERM, 1953

No. 79

JULIUS EMSPAK, PETITIONER,

vs.

UNITED STATES OF AMERICA

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

PETITION FOR CERTIORARI FILED MAY 13, 1953.
CERTIORARI GRANTED OCTOBER 12, 1953.

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IN THE

United States Court of Appeals

FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 10,943.

JULIUS EMSPAK, *Appellant,*

v.

UNITED STATES OF AMERICA, *Appellee.*

Appeal from the United States District Court for the District of Columbia.

JOINT APPENDIX.

Filed March 1, 1951

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA

v.

JULIUS EMSPAK

Criminal No. 1742-50

Notice of Appeal

Name of address of appellant: Julius Emspak, 11 East 51st Street, N. Y. C.

Name and address of appellant's attorney, Allan R. Rosenberg, 1741 K Street, N. W., Washington, D. C.

Offense: Violation of RS 102 2 USC 192.

Concise statement of judgment or order, giving date, and any sentence: Adjudged guilty of violation of RS 102 for refusing to answer questions of House Committee on Un-American Activities March 1, 1951, jail 6 months, $500 fine.

Name of institution where now confined, if not on bail: D. C. Jail.

I, the above-named appellant, hereby appeal to the United States Court of Appeals for the District of Columbia Circuit from the above-stated judgment.

JULIUS EMSPAK,
Appellant,

ALLAN R. ROSENBERG,
Attorney for Appellant.

Date, March 1, 1951.
A true copy.

Test:
HARRY M. HULL, *Clerk.*
By HELEN M. MCINTOSH, *Deputy Clerk.*

Filed March 2, 1951

Form of Clerk's Statement of Docket Entries to be Forwarded Under Rule IV

(To accompany duplicate notice of appeal to the United States Circuit Court of Appeals)

DISTRICT COURT OF THE UNITED STATES FOR THE DISTRICT OF COLUMBIA

Criminal No. 1742-50

UNITED STATES OF AMERICA

v.

JULIUS EMSPAK

1. Indictment for Vio. Sec. 192, Title 2, U. S. Code, filed Nov. 20, 1950; 2. Arraignment, Nov. 24, 1950; 3. Plea to indictment, Not Guilty, Nov. 24, 1950; 4. Trial by court, Feb. 19, 1951; 5. Finding of guilt, Guilty as indicated, Feb. 26, 1951; 6. Judgment—(with terms of sentence) Six (6) months and to pay a fine of $500.00. Letts, J. entered March 1, 1951; 7. Notice of appeal filed March 1, 1951.

Date—March 2, 1951.

Attest

HARRY M. HULL
Clerk

By: HELEN M. McINTOSH
Deputy Clerk

N. B.—This statement from the docket entries is intended suitably to identify the case and not as a substitute for the record on appeal, which is to be prepared and certified as provided in rules VII, VIII, and IX.

Filed in Open Court November 20, 1950

303 UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

Holding a Criminal Term

(Grand Jury Impaneled on October 3, 1950 and Sworn in on October 4, 1950)

UNITED STATES OF AMERICA

v.

JULIUS EMSPAK

Criminal No. 1742-50

Grand Jury Original
(2 U. S. C. 192)

Indictment

INTRODUCTION

The Grand Jury charges:

On December 5, 1949, at and within the District of Columbia, a duly created sub-committee of the Committee on Un-American Activities of the House of Representatives was conducting an inquiry pursuant to authority conferred upon it by law, and particularly subsection (q) (2), Section 121 of The Legislative Reorganization Act of 1946, 60 St. L. p. 828 and House Resolution 5 of the Eighty-first Congress. The defendant Julius Emspak appeared as a witness before that sub-committee at the place and on the date above stated, and was asked questions all of which were pertinent to the question then under inquiry before the sub-committee. At the time and place stated the defendant refused to answer those pertinent questions. The allegations of this introduction are adopted and incorporated into the counts of this indictment which follow, each of which counts will in addition simply describe

the question which was asked of the defendant and which he refused to answer.

COUNT ONE

Whether the defendant was acquainted with Joseph Persily.

COUNT TWO

In what capacity Joseph Persily was associated with UE (meaning United Electrical, Radio, and Machine
304 Workers of America) at the time the question was asked.

COUNT THREE

Whether Joseph Persily was an organizer in the UE (meaning United Electrical, Radio and Machine Workers of America).

COUNT FOUR

Whether the defendant was acquainted with Albert Smith.

COUNT FIVE

Whether Albert Smith was employed by the UE (meaning United Electrical, Radio, and Machine Workers of America).

COUNT SIX

Whether Max Helford had even been connected with UE (meaning United Electrical, Radio, and Machine Workers of America) as a field organizer.

COUNT SEVEN

Whether Max Helford was a field organizer for UE (meaning United Electrical, Radio, and Machine Workers of America) at the time the question was asked.

COUNT EIGHT

Whether Phil Saba was originally from local 155.

COUNT NINE

Whether Phil Saba was a field organizer for the UE (meaning United Electrical, Radio, and Machine Workers of America) in district 1 at the time the question was asked.

COUNT TEN

Whether Hank Rhine was an international representative of the UE (meaning United Electrical, Radio, and Machine Workers of America) at the time the question was asked.

COUNT ELEVEN

Whether Jack Gorelick was affiliated with the UE (meaning United Electrical, Radio, and Machine Workers of America) at the time the question was asked.

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COUNT TWELVE

Whether Ernest Moyer was a field organizer for UE (meaning United Electrial, Radio, and Machine Workers of America) in the Easton area.

COUNT THIRTEEN

Whether the defendant knew James Lustig.

COUNT FOURTEEN

Whether James Lustig was an international representative of the UE (meaning United Electrical, Radio, and Machine Workers of America).

COUNT FIFTEEN

Whether Morris Kersten was an international representative of UE (meaning United Electrical, Radio, and Machine Workers of America).

COUNT SIXTEEN

Whether Fred Haug was an international representative of the UE (meaning United Electrical, Radio, and Machine Workers of America).

COUNT SEVENTEEN

Whether Charles Newell was an international representative of the UE (meaning United Electrical, Radio and Machine Workers of America).

COUNT EIGHTEEN

Whether Leo Turner was a field organizer for UE (meaning United Electrical, Radio, and Machine Workers of America) in district 6.

COUNT NINETEEN

Whether Hugh Harley was a field organizer for UE (meaning United Electrical, Radio, and Machine Workers of America).

COUNT TWENTY

Whether Arthur Garfield was an international representative of UE (meaning United Electrical, Radio, and Machine Workers of America).

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COUNT TWENTY-ONE

Whether Ernest DeMaio was an international representative of UE (meaning United Electrical, Radio, and Machine Workers of America).

COUNT TWENTY-TWO

Whether Henry Fiering was a field organizer for UE (meaning United Electrical, Radio, and Machine Workers of America).

COUNT TWENTY-THREE

Whether Herbert Hirschberg was an international representative of UE (meaning United Electrical, Radio, and Machine Workers of America).

COUNT TWENTY-FOUR

Whether K. M. Kirkendahl was a field organizer of UE (meaning United Electrical, Radio, and Machine Workers of America).

COUNT TWENTY-FIVE

Whether Robert Harrison was a field organizer of UE (meaning United Electrical, Radio, and Machine Workers of America).

COUNT TWENTY-SIX

Whether William Santora was a field organizer of UE (meaning United Electrical, Radio, and Machine Workers of America).

COUNT TWENTY-SEVEN

Whether Marcel Scherer was an international representative of UE (meaning United Electrical, Radio, and Machine Workers of America).

COUNT TWENTY-EIGHT

Whether Louis I. Sorti was a field organizer of UE (meaning United Electrical, Radio, and Machine Workers of America).

COUNT TWENTY-NINE

Whether Philip V. Gelder was an international representative of UE (meaning United Electrical, Radio,
307 and Machine Workers of America).

COUNT THIRTY

Whether Perez Zagorin was a field organizer of UE (meaning United Electrical, Radio, and Machine Workers of America).

COUNT THIRTY-ONE

Whether Carl Brandt was connected or associated in any way as an international representative or otherwise with UE (meaning United Electrical, Radio, and Machine Workers of America).

COUNT THIRTY-TWO

Whether Al Clough was a field organizer for UE (meaning United Electrical, Radio, and Machine Workers of America).

COUNT THIRTY-THREE

Whether John Thomas was a field organizer for UE (meaning United Electrical, Radio, and Machine Workers of America).

COUNT THIRTY-FOUR

Whether Fred Keller was a field organizer with UE (meaning United Electrical, Radio, and Machine Workers of America).

COUNT THIRTY-FIVE

Whether John Mitchell was a field organizer for UE (meaning United Electrical, Radio, and Machine Workers of America).

COUNT THIRTY-SIX

Whether Fred Sheppart was a field organizer for UE (meaning United Electrical, Radio, and Machine Workers of America).

COUNT THIRTY-SEVEN

Whether L. B. Slagle was a field organizer with UE (meaning United Electrical, Radio, and Machine Workers of America).

308 COUNT THIRTY-EIGHT

Whether Robert B. Logsdon was an international representative of UE (meaning United Electrical, Radio, and Machine Workers of America).

COUNT THIRTY-NINE

Whether John Bittman was a field organizer for UE (meaning United Electrical, Radio, and Machine Workers of America).

COUNT FORTY

Whether William B. Elconon was an international representative of UE (meaning United Electrical, Radio, and Machine Workers of America).

COUNT FORTY-ONE

Whether H. M. Martinson was a field organizer for UE (meaning United Electrical, Radio, and Machine Workers of America).

COUNT FORTY-TWO

Whether Irene Berman was an international representative of UE (meaning United Electrical, Radio, and Machine Workers of America).

COUNT FORTY-THREE

Whether Allan Bjorklund was a field organizer for UE (meaning United Electrical, Radio, and Machine Workers of America).

COUNT FORTY-FOUR

Whether Thomas Foley was a field organizer for UE (meaning United Electrical, Radio, and Machine Workers of America).

COUNT FORTY-FIVE

Whether Robert Kirkwood was an international representative of UE (meaning United Electrical, Radio, and Machine Workers of America).

COUNT FORTY-SIX

Whether Lee Lundgren was an international representative of UE (meaning United Electrical, Radio, and Machine Workers of America).

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COUNT FORTY-SEVEN

Whether William Mauseth was a field organizer for UE (meaning United Electrical, Radio, and Machine Workers of America).

COUNT FORTY-EIGHT

Whether William Sheehan was a field organizer for UE (meaning United Electrical, Radio, and Machine Workers of America).

COUNT FORTY-NINE

Whether Phillip H. Smith was an international representative of UE (meaning United Electrical, Radio, and Machine Workers of America).

COUNT FIFTY

Whether the defendant knew John T. Bernard.

COUNT FIFTY-ONE

Whether John T. Bernard was a field organizer for the UE (meaning United Electrical, Radio, and Machine Workers of America) in the Chicago district.

COUNT FIFTY-TWO

Whether Peter Besch was an international representative of UE (meaning United Electrical, Radio, and Machine Workers of America).

COUNT FIFTY-THREE

Whether T. Louis Majors was an international representative of UE (meaning United Electrical, Radio, and Machine Workers of America).

COUNT FIFTY-FOUR

Whether Robert McNaughton was a field organizer of UE (meaning United Electrical, Radio, and Machine Workers of America).

COUNT FIFTY-FIVE

Whether John Paradise was a field organizer for UE (meaning United Electrical, Radio, and Machine Workers of America).

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COUNT FIFTY-SIX

Whether Nick Tomasetti was a field organizer for UE (meaning United Electrical, Radio, and Machine Workers of America).

COUNT FIFTY-SEVEN

Whether the defendant was acquainted with James MacLeish.

COUNT FIFTY-EIGHT

Whether James MacLeish was at the time the question was asked president of district 4, United Electrical, Radio, and Machine Workers of America.

COUNT FIFTY-NINE

Whether the defendant had ever been affiliated with the National Federation for Constitutional Liberties.

COUNT SIXTY

Whether the defendant had ever been associated with the Civil Rights Congress.

COUNT SIXTY-ONE

Whether the defendant denied or affirmed the statement said to have been made by Salvatore M. Vottis that Vottis had attended fraction meetings of the Communist Party along with the defendant and other members of the UE (meaning United Electrical, Radio, and Machine Workers of America).

COUNT SIXTY-TWO

Whether the defendant denied or affirmed that statement said to have been made by Salvator M. Vottis that the defendant attended Communist Party meetings held in his home in Schenectady, New York.

COUNT SIXTY-THREE

Whether the defendant was a member of the Communist Party at the time the question was asked.

COUNT SIXTY-FOUR

Whether the defendant was a member of the Communist Party at any time he signed the affidavit required
311 by the Taft-Hartley law.

COUNT SIXTY-FIVE

Whether the defendant had ever paid Communist Party dues.

COUNT SIXTY-SIX

Whether the defendant had ever signed an application to join the Communist Party.

COUNT SIXTY-SEVEN

Whether the defendant had ever registered as a member of the Communist Party.

COUNT SIXTY-EIGHT

Whether the defendant as a member of the Communist Party attended the trial of Earl Browder at Communist Party headquarters in New York City.

GEORGE MORRIS FAY
United States Attorney in and for the District of Columbia

A True Bill: LLOYD B. WILSON, JR., *Foreman.*

Filed November 27, 1950

312 UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

UNITED STATES

v.

JULIUS EMSPAK, *Defendant*

Criminal No. 1742-50

Charge Vio. sec. 192, title 2, U. S. Code.

Plea of Defendant

On this 24th day of November, 1950, the defendant Julius Emspak, appearing in proper person and by his attorney

Alan Rosenberg, being arraigned in open Court upon the indictment, the substance of the charge being stated to him, pleads not guilty thereto.

By direction of

BURNITA S. MATTHEWS
Presiding Judge
Criminal Court No. One

HARRY M. HALL
Clerk

By C. H. MILSTEAD
Deputy Clerk

Present:

United States Attorney

By CHARLES B. MURRAY
Assistant United States Attorney

H. B. SMITH
Official Reporter

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313 Filed December 19, 1950

Motion to Dismiss Indictment and for Other Appropriate Relief

The defendant above named moves, pursuant to Rule 12 of the Federal Rules of Criminal Procedure, on the indictment herein, on the affidavit of Julius Emspak, the affidavits of David Scribner, Esq., and the affidavit of Albert J. Fitzgerald, all verified December 16, 1950, that the indictment be dismissed, or that appropriate relief be granted, upon the following grounds:

1. Section 192 of Title 2 of the United States Code is unconstitutional on its face and as construed and applied herein in that it violates the constitutional privilege against self-incrimination contained in the Fifth Amendment to the Constitution of the United States.

2. Section 192 of Title 2 of the United States Code is unconstitutional on its face and as construed and applied herein in that it exceeds the bounds of the constitutional power of the Congress to investigate in aid of its legislative jurisdiction.

3. Section 192 of Title 2 of the United States Code is unconstitutional on its face and as construed and applied herein in that it is vague and indefinite, and fails to provide an ascertainable standard of conduct in violation of the Fifth and Sixth Amendments to the Constitution of
314 the United States.

4. Section 192 of Title 2 of the United States Code is unconstitutional on its face and as construed and applied herein in that it violates the First Amendment to the Constitution of the United States.

5. Section 121, Legislative Reorganization Act of 1946, subsection (q) (2) and House Resolution 5 of the 81st Congress creating the House Committee on Un-American Activities are unconstitutional on their face and as applied and construed herein:

(a) in that they violate the constitutional privilege against self-incrimination contained in the Fifth Amendment to the Constitution of the United States.

(b) in that they are vague and indefinite and fail to provide an ascertainable standard for conduct in violation of the Fifth and Sixth Amendments to the Constitution of the United States

(c) in that they violate the First, Ninth and Tenth Amendment to the Constitution of the United States.

(d) in that they constitute a Bill of Attainder.

6. The indictment fails to charge an offense under the laws of the United States.

7. The indictment fails to charge an offense under the laws of the United States in that the questions asked exceeded the bounds of legislative inquiry and were not pertinent to any question properly under inquiry before the Committee.

8. The indictment fails to state an offense under the laws of the United States in that it fails to allege that the defendant was directed by the Subcommittee to answer the questions set forth in the indictment.

9. The indictment violates the Fifth Amendment to the United States Constitution and Rule 7 of the Federal Rules of Criminal Procedure in that it fails to provide the defendant with adequate notice of the offense with which he is charged.

315 10. The indictment is void and illegal in that there are less than 12 members of the Grand Jury which voted the indictment who were impartial and free from prejudice or bias against the defendant, and therefore as to this defendant the alleged Grand Jury was illegally constituted. The indictment should be dismissed or in the alternative the defendant should be granted a hearing at which he can offer proof that bias or prejudice existed on the part of more than 11 of the Grand Jurors.

11. The indictment is improperly and illegally drawn and is prejudicial to the defendant in violation of the Federal Rules of Criminal Procedure in that the alleged acts set forth in the several counts of the indictment were questions directed all to one subject of inquiry and were simultaneous and continuous acts constituting only one alleged offense which could only be charged in a single count.

12. The indictment as drawn places the defendant in double jeopardy for a single offense in violation of the Fifth Amendment to the United States Constitution.

And in the alternative, the defendant moves the Court for an order directing the United States Attorney for the District of Columbia to serve and file a Bill of Particulars setting forth in detail the answers to the following:

1. By what authority and in what manner was the "Subcommittee" on Un-American Activities of the House of Representatives appointed or designated?

2. What was the specific question then under inquiry before the "Subcommittee"?

316 3. What facts did each question which is set forth in each count of the indictment seek to elicit in respect to the question then under inquiry before the "Subcommittee"?

4. State all the questions asked and answers made by the defendant at his appearance before the "Subcommittee" at the hearing on December 5, 1949.

DAVID SCRIBNER
Office & Post Office Address
11 East 51st Street
New York 22, New York

ALLAN R. ROSENBERG
Office & Post Office Address
1741 K Street, N.W.
Washington, D. C.
Attorneys for Defendant

Dated: December 16, 1950

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318 **Affidavit of Albert J. Fitzgerald**

STATE OF NEW YORK
COUNTY OF NEW YORK ss:

ALBERT J. FITZGERALD, being duly sworn, deposes and says:

I am the General President of the United Electrical, Radio and Machine Workers of America (UE), hereafter referred to as the UE, a labor union of workers in the electrical, radio and machine manufacturing industry. The UE represents over 300,000 employees in that industry.

This affidavit is in support of the motion of the defendant herein, an officer and member of the UE, to dismiss the indictment.

It is my understanding, and I have been so informed by counsel, that a Congressional Committee, under our Constitution, does not have unlimited power to conduct investigations into the affairs of private citizens and their organizations. It is my understanding that a Congressional Committee may carry on an investigation only in aid of legislative functions properly within the constitutional limitations on Congressional power.

The investigations and hearings of the House Un-American Activities Committee out of which this indictment arose, exceeded the bounds of constitutional power and were directed toward objectives totally unrelated to the legitimate legislative business of the Committee or the House of Representatives.

The investigation and hearings of August 9, 1949 to which defendants Thomas Fitzpatrick, Frank Panzino and Thomas Quinn, also members of UE, were subpoenaed were openly directed by the Committee toward the objective of interfering with and influencing the outcome of a local union election then pending in Pittsburgh, Pennsylvania. The objective of the Congressional inquiry was obviously to influence the outcome of this election. Such an inquiry lies far beyond the constitutional legislative bounds of the Committee or the Congress.

The *Pittsburgh Press*, on August 5, 1949, stated in respect to the objectives of this investigation:

> "Other Committee sources said it was their understanding *that the entire point of the hearing was to disclose the Communist infiltration into the powerful local prior to the election so the members would know for whom they were voting.*
>
> *"They said a postponement would defeat the primary objective of the investigation."* (*Pittsburgh Press*, Aug. 5, 1949) (Emphasis supplied)

The *Pittsburgh Post-Gazette* on August 7, 1949 reported the opinions of members of Congress themselves that the Committee investigation was directed to no legitimate legislative function of Congress:

319 "PROBE TIED TO UE ELECTION"

by Ingrid Jewell

"A week from today Local 601 of the United Electrical Workers Union, the big Westinghouse unit, will elect delegates to the UE Convention, to be held in Cleveland Sept. 19.

"During this coming week the House Un-American Activities Committee will hold hearings in Washington on alleged infiltration of Communists into Local 601.

"The Un-American Activities Committee investigation was sought from Representative Francis Walter, Democrat, Easton, Pa., a committee member, by the Reverend Charles Owen Rice, a Pittsburgh Jesuit priest, who is a leader of the Association of Catholic Trade Unions, and by two lay members of that association, Ernest Vida and John Duffy.

"The Pittsburghers said they feared Communist infiltration in Local 601 would endanger production of and research on radar.

"Western Pennsylvania congressmen believe, however, the investigation was requested at this time to influence next Sunday's election and ultimately the election of the international officers at the convention.

"The congressmen are divided as to whether this outside influence is a good thing. The UE International does not have a constitutional provision barring Communists."

". . . .

"At stake in next Sunday's election at Local 601 are about 150 delegate votes. There will be about 4,000 votes at the convention in Cleveland, but the question of whether to retain or change the international leadership is a burning one, not only in Pittsburgh, but in other industrial centers where UE has a large membership.

"*So even 150 votes could be a decisive factor in the international's election at the convention, our congressmen believe.*"

The Committee itself never disavowed this objective. According to the press, Congressman Walter, a member of the Committee, conceded that the Pittsburgh investigation was instigated at the request of a clergyman interested in assisting an inner union clique in its attempt to win a local election. (See the *Pittsburgh Post-Gazette,* July 31, 1949.) Even during the hearing itself Committee members acknowledged that they had consulted representatives of this inner union clique in determining the objectives and timing of the hearings. (Hearings, p. 605). Throughout the entire hearing it was made perfectly clear that the objective of the investigation was to provide a sounding board for one faction in an internal union fight so as to influence and determine the course of a local union election. (Hearings, p. 610). Such an investigation was not in aid of legislation; it was openly and frankly designed to interfere in and influence the results of a local trade union election. Such an objective lies totally beyond the constitutionally defined powers of the Committee or the House of Representatives.

320 The hearings held on Dec. 5 and 6, 1949, which resulted in the indictments of the defendants Julius Emspak and James J. Matles were a continuation of the investigation launched by the Committee during the summer of 1949, and were similarly totally beyond the constitutional power of the Committee, being directed toward objectives foreign to the legislative functions of the Congress.

The announced purpose of the Dec. 5 and 6th hearings insofar as they affected Mr. Emspak and Mr. Matles was to inquire into a possible violation of the Taft-Hartley Law.

On November 17, 1949, the *New York Times* ran a story which revealed the objective of the Committee's hearings as "looking into the validity of non-Communist affidavits filed by officers of the left wing United Electrical, Radio & Machine Workers of America."

> "The House Committee on Un-American Activities disclosed last night in Washington that it was looking

into the validity of non-Communist affidavits filed by officers of the left wing United Electrical, Radio & Machine Workers of America.

" . . . A spokesman for the Congressional investigating committee said it had issued subpoenas for Julius Emspak, Secretary-Treasurer, and James J. Matles, the Union's Director of Organization, before a subcommittee on November 29th. The spokesman indicated that the committee wanted to question the two officials about the affidavits they submitted to the National Labor Relations Board under the provisions of the Taft-Hartley Act. . . .

"The Committee said the subpoenas had been issued three weeks ago. This was just after the Union had filed affidavits with the NLRB and two weeks before the CIO revoked its charter."

(*New York Times*, Nov. 17, 1949)

The entire course of the actual hearings revealed the objective of the Committee in seeking to disclose a possible violation of Section 80 of the Criminal Code for false statements made in the so-called Taft-Hartley non-Communist affidavits. (See transcript of hearings.)

This investigation of the Committee was in its nature clearly judicial. It was totally in excess of the power of the Committee or the House of Representatives. The Committee cannot compel the divulgence of information for the purpose of ascertaining whether a crime has been committed as the basis for a criminal prosecution. This is not the function of a Congressional Committee.

The Dec. 5 and 6th Congressional hearings, just as the summer hearings, were quite frankly designed not to further any legislative objective, but rather to intervene openly in the interest of one faction in a union election, and to attempt to prepare criminal prosecutions of the leaders of the union.

321 The last hearings involving members of UE, held in July 1950, out of which the indictments of Esther

Tice and Talmadge Raley arose, reveal in a startling fashion that the objective of the investigation was not to assist the legitimate legislative functions of the Congress, but rather to harass and discredit UE members and their union.

The July hearings were held at the request of the *Cincinnati Enquirer,* a notorious anti-labor newspaper. As the *Enquirer* itself stated:

> "Eighteen months of research and diligent digging by James Ratliff, *Enquirer* reporter, and associates on the staff reached fruition when the House Committee turned the witness stand over to witnesses introduced by the *Enquirer.*"
>
> (*Enquirer,* Sunday, July 16, 1950.)

The *Enquirer* sought to have hearings held to serve as a privileged forum for its own partisan articles.

As the *Akron Beacon Journal* reported on July 23, 1950:

> "The story behind the Ohio Un-American Committee 1950 hearing is an interesting one. Last year the Cincinnati Enquirer began a series of articles about Communism in Cincinnati, but because of fear of libel, it used practically no names. In an effort to get the names on the record in the committee it brought its star witness Cecil Scott to Washington and tried to get the committee to hear him.
>
> "The committee refused because Scott had served time for forgery and had also been a mental patient.
>
> "The other Cincinnati papers heard about the fiasco and gave the Enquirer such a roasting that it redoubled its efforts to get a hearing.
>
> "Helped along by some Republicans who saw the *political possibilities,* and provided with more acceptable witnesses, *the paper was finally able to get the committee to hold the hearing.*"

Despite the obvious incompetence of Scott's testimony the Committee not only proceeded to hold the hearings but centered the entire questioning of UE member Tice upon a crude forgery which Committee member Walter later

charged was perpetrated by Scott, the star witness of the *Enquirer*. As Congressman Walter's statement reveals, not only was the Committee fully aware of the utter incompetence of the witness initiating the hearing, but also the Committee was aware that a forged document was being used to frame, smear and incriminate UE members.

The *Cincinnati Post* of October 23, 1950 reported in full Congressman Walter's important revelations:

> "A U.S. representative charged Monday that Cecil D. Scott altered a document before presenting it as evidence to the House committee on un-American activities. The congressman is Rep. Francis I. Walter (D., Pa.). He is vice chairman of the committee.
>
> 322 "Rep. Walter said he would recommend the matter be referred to the U.S. attorney in Washington for action when Congress reconvenes in November.
>
> "Scott was the chief original source of information for James Ratliff, Cincinnati Enquirer reporter, who wrote a series of stories on Communism last February and March.
>
> "Scott testified for five days last summer before the House committee. His testimony never has been released and, according to several committee members, probably never will be.
>
> "Rep. Walter conducted most of the questioning last summer when the committee held a Washington hearing on Communism in Cincinnati and other Ohio cities. "Rep. John McSweeney (D., Wooster, O.) also said that Scott had falsified part of his testimony.
>
> "Apparently the chief investigation of Scott's testimony centered around a letter or letters allegedly written to Esther Tice, former organizer for the United Electrical, Radio & Machine Workers of America.
>
> *Some Not True*
>
> "In announcing that he would recommend the matter be referred to the U.S. attorney for action, Mr. Walter said:

" 'I do know that some of his testimony was not true. Somebody apparently altered a document to lend significance to it. After Scott had offered us what he said was a copy of the letter we obtained the original.

" 'He said what he gave us was a copy. It had been added to. He said he had obtained the letter from a purse or a file and had taken it from the office and copied it, then put the original back.

Obtained Original

" 'The committee got hold of the original and the significant part was not in the original letter.

" 'Our investigators have checked some other parts of his testimony. I do know that, because of that part of his evidence which we found to be false some of us believe that his whole testimony is not entitled to credence.

" 'That fact and the fact he was in a mental institution does not lend credence to his testimony.

Will Recommend Action

" 'I think action should be taken. If he deliberately altered or changed a document to lend significance to it, it should be referred to the U.S. attorney.

" '*I will so recommend when Congress convenes.*'

"In speaking of Scott's reliability, Rep. Walter's colleague, Mr. McSweeney said he also was aware a document had been changed."

(*Cincinnati Post*, October 23, 1956)

The conduct of the Committee in these hearings, culminating not in a prosecution of those who perpetrated the forgery, but in a prosecution of the victims of the
323 forgery reveals in a most striking manner the fact apparent in the earlier hearings, that the Committee was not conducting investigations in good faith designed to assist in legitimate legislative functions of the Congress, but rather had as its objective non-legislative purposes directed toward interference in the internal affairs of a trade

union and the instigation of criminal prosecutions against its leaders and members.

ALBERT J. FITZGERALD

Sworn to before me this 10th day of December, 1950,

DAVID RATNER.

David Ratner, Notary Public, State of New York, No. 41-3211050, Qualified in Queens County, Certs. filed with N. Y., Kings, Bronx and Westchester Co. Clks. Queens, King, N. Y. & Bronx Co. Registers, Commission Expires March 30, 1951.

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324 Filed December 19, 1950

Affidavit of David Scribner

STATE OF NEW YORK,
COUNTY OF NEW YORK, *ss:*

DAVID SCRIBNER, being duly sworn, deposes and says:

I am one of the attorneys for the defendant named in the above bill of indictment.

This affidavit is made in support of the motion to dismiss the indictment on the ground that it is void and illegal in that the Grand Jury which voted the indictment was illegally constituted as to this defendant.

I have been advised that the Grand Jury records in this Court will indicate that 10 of the 23 members of the Grand Jury which voted the indictment against this defendant were employed by the government of the United States, and that two of the Grand Jurors are listed in the records as "unemployed."

Information about the employment of the wives or husbands or children of the Grand Jurors can be obtained only from examination of the Grand Jurors at a hearing or from examination of records not presently available to the deponent.

This indictment arises out of an investigation and inquiry by the House Committee on Un-American Activities. The questions in the indictment referred to alleged Communist activities or association. On information and belief, the transcript of the hearing before the "Subcommittee" of the House Committee on Un-American Activities was made available to the Grand Jury.

325 The above facts, among others, in the context of Executive Order 9835, known as the President's Loyalty Order, which order includes as one of the criteria for continued employment the absence of any "sympathetic association" with the Communist Party or other activities alleged to be "subversive", require that the defendant be permitted by the Court to inquire further into actual and implied bias and prejudice on the part of the Grand Jurors.

I respectfully call the attention of the Court to the decision of the Supreme Court of the United States in *Dennis* v. *United States,* 339 U.S. 162, in which opinion the Court held that a defendant has the right to show by proof both actual and implied bias on the part of jurors.

Under the applicable law the defendant must be given an opportunity to demonstrate and inquire into the effect of the President's Loyalty Order upon government employees in general and those in the Grand Jury in particular. The defendant must be given an opportunity to demonstrate that the investigations under the President's Loyalty Order inquire into conduct of government employees including their activities as Grand Jurors or the activities of spouses as Grand Jurors in respect to issues like those involved in the present indictments. I respectfully call to the attention of the Court the threats of the House Committee on Un-American Activities against the Attorney General if indictment in contempt cases were not returned (see 93 Congressional Record 3815, 3932).

In this connection Mr. Justice Jackson's description of the atmosphere in Washington in 1948 insofar as it affects

government employees in *Frazier* v. *United States*, 335 U.S. 497, is certainly even more significant at the present date.

The passage of the Internal Security Act of 1950 and in particular the specific reference to government employees and the sanctions placed therein upon "sympathetic association" by government employees with alleged Communist activities created more than a reasonable presumption of a sufficient influence upon such government employees so as to grant the defendant a hearing at which actual or implied bias and prejudice is shown to be present in the respective Grand Jurors.

326 Under these circumstances the defendant has the right, as the Supreme Court stated in *Dennis* v. *United States*, cited *supra*, to bring "circumstances . . . to the Court's attention which would convince the Court that government employees would not be suitable jurors" in this particular proceeding. Under the mandate of the Supreme Court the defendant likewise has a right to ascertain whether the spouses or relatives of other Grand Jurors are government employees, particularly since they may be employees of the very Congressional Committee here involved. Similarly the defendant has the right to ascertain whether Grand Jurors listed in the records as "unemployed" are now seeking government employment.

Therefore, I respectfully urge the Court to dismiss the indictment and in the alternative that the defendant be granted a hearing pursuant to Rule 12(b) (4) of the Federal Rules of Criminal Procedure to prove by evidence to the Court that more than 11 of the Grand Jurors were actually or impliedly biased and prejudiced against the defendant and that the indictment is therefore void and illegal.

DAVID SCRIBNER

Sworn to before me this 16th day of December, 1950.

DAVID RATNER

David Ratner, Notary Public, State of New York, No. 41-3211050, Qualified in Queens County, Certs. filed with N. Y., Kings, Bronx and Westchester Co. Clks. Queens, King, N. Y. & Bronx Co. Registers. Commission expires March 30, 1951.

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327 Filed December 19, 1950

Affidavit of David Scribner

STATE OF NEW YORK,
COUNTY OF NEW YORK, *ss:*

DAVID SCRIBNER, being duly sworn, deposes and says:

1. I am one of the attorneys for the defendant named in the above bill of indictment.

2. I have consulted with the defendant in respect to the charges set forth in the indictment.

3. This application is made in good faith for the purpose of informing the defendant of the particular offense upon which he stands charged.

4. The defendant cannot properly answer the charge set forth in the indictment or move in respect thereto without the additional information asked for in the request for a bill of particulars.

5. Without the information requested the defendant cannot properly prepare a defense.

DAVID SCRIBNER.

Sworn to before me this 16th day of December, 1950,

DAVID RATNER.

David Ratner, Notary Public, State of New York, No. 41-3211050, Qualified in Queens County, Certs. filed with N. Y., Kings, Bronx and Westchester Co. Clks. Queens, King, N. Y. & Bronx Co. Registers, Commission Expires March 30, 1951.

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328 Filed December 19, 1950

Affidavit of Julius Emspak

STATE OF NEW YORK,
COUNTY OF NEW YORK, *ss:*

JULIUS EMSPAK, being duly sworn, deposes and says:

I am the defendant in the present action. I am, and have been for the past 14 years, the General Secretary-Treasurer of the United Electrical, Radio & Machine Workers of America (UE), a labor union.

On December 5, 1949, in response to a subpoena served upon me, I appeared in Washington, D. C., before Mr. Morgan M. Moulder, a member of the House of Representatives and a member of the House Committee on Un-American Activities.

At this hearing Mr. Moulder and a Mr. Frank S. Tavenner, Jr., who stated he was counsel for the House Committee, questioned me (Exhibit No. 1, pp. 833-854, 858-859). I answered a large number of questions. However, with respect to the questions referred to in the indictment, I asserted my constitutional privilege against self-incrimination as well as my rights under the First Amendment of the Federal Constitution. There was a very real basis for my fear that the answers sought might be used in an attempt to institute criminal prosecutions against me,
329 or that such answers might supply evidence or clues to evidence or links in a chain of evidence which might be used in criminal prosecutions against me. The questions attempted to elicit whether I was, or had ever been a member of the Communist Party, whether I associated or belonged to certain organizations which in turn had been charged with being Communist or Communist affiliates, and my association with and information concerning certain named individuals whom I knew had been charged with being Communists or Communist supporters, or with being members of or affiliated with organizations listed by Committees of Congress and the Attorney General

or both as "subversive," or had been charged or attacked as such in other ways.

The basis for my fear appears from the following facts, among others, which I had knowledge of at the time I appeared before Mr. Moulder on December 5, 1949:

1. On November 17, 1949, the very day after I received a subpoena from the House Committee on Un-American Activities, the *New York Times* published a report that the Committee was "looking into the validity of non-Communist affidavits" signed by me, and that that was the purpose for the hearing for which I was subpoenaed. (Exhibit No. 2).

2. On November 23, 1949, the newspapers prominently reported that "within 30 days" steps would be taken by the Department of Justice towards criminal prosecution of me based on my signing of the Taft-Hartley affidavit. (Exhibit No. 3).

3. Prior to my appearance on December 5, 1949, the Un-American Activities Committee held hearings on August 9, 10 and 11, 1949, in Washington, D.C., with reference to the alleged Communist infiltration into Local 601, United Electrical, Radio & Machine Workers of America (UE). At that hearing Mr. Tavenner, counsel for the Committee stated, "The purpose of this hearing is to inquire into the question of Communists, Communist affiliation or association of certain members of Local 601 United Electrical, Radio & Machine Workers of America, which is engaged in work at industrial plants important to national defense."
330 (Hearings Regarding Communist Infiltration of Labor Unions—Part I, House Committee on Un-American Activities, August 9, 10, 11, 1949, p. 541.) The hearing at which I testified on December 5, 1949, was a continuation of the investigation into the alleged Communist affiliations of officers of United Electrical, Radio & Machine Workers of America (UE).

4. The Smith Act was in existence at the time of my appearance on December 5, 1949. Communists had already

been indicted, convicted and sentenced on a charge of conspiring to advocate certain doctrines in violation of the Smith Act. I was also aware at the time that there were pending indictments against Communists on the grounds that membership in the Communist Party was an offense under the Smith Act (Exhibit No. 4 and No. 5).

5. It was common knowledge at the time of my appearance on December 5, 1949, that investigations of "Communists" by the Department of Justice and other governmental agencies for the purpose of criminal prosecution, were current throughout the nation (Exhibit No. 6).

6. As a result of my experience in the labor movement, I was of the opinion that aggressive trade union leaders who fought consistently for the needs of the people against vested interests would be charged with being a Communist. I was aware that the Director of the Federal Bureau of Investigation, J. Edgar Hoover, and other government officials, the House Un-American Activities Committee and others had stated on many occasions that the term Communist included "fellow travellers" or "sympathizers."

7. Prior to my appearance on December 5, 1949, I had been charged with being a Communist by the House Un-American Activities Committee, a House Labor Committee, other government officials, certain spokesmen of industry, certain sections of the press, and other individuals and agencies hostile to me and to the union of which I am an officer (Exhibit No. 7, No. 8, No. 9).

8. At the trial of the 11 Communists in New York
331 on a charge of violation of the Smith Act, I had been accused by a government witness of being a Communist and associating with the defendants in that case (Exhibit No. 10). The very House Un-American Activities Committee before which I had been subpoenaed to appear, had been urging the prosecution of Communists (Exhibit No. 11), and had boasted that its information, files, records, testimony, etc. were used extensively by government agencies including the FBI in investigating Communist affiliations or activities (Exhibit No. 12).

9. The National Federation of Constitutional Liberties, and the Civil Rights Congress, concerning which I was questioned, had both been attacked as Communist organizations or Communist-front organizations, or as Communist dominated or supported organizations.

10. When asked questions about certain named individuals, I was aware that practically all, if not all of these individuals had been charged with being Communists or Communist supporters, or members of or affiliated with organizations listed or charged as being Communist. (See, for example, Hearings Regarding Communist Infiltration of Labor Unions—Part I, House Un-American Activities Committee, August 9, 10 and 11, 1949, pp. 651-681; see, also, House Report No. 1115, Report on Civil Rights Congress as a Communist Front organization, September 2, 1947; and House Report No. 1311, Report on the C.I.O. Political Action Committee, March 29, 1944; and Investigation of Communist Infiltration of UERMWA, Hearings, Special Sub-committee of House Committee on Education and Labor, 1949, pp. 168-190). I was aware that all of these individuals had been charged in other ways and by other sources with being Communists or Communist supporters, or members of or affiliated with organizations listed or charged as being Communists. Most of the individuals about whom I had been questioned in my appearance before the Un-American Activities Committee on December 5, 1949, were included in a list submitted by Mr. J. B. Matthews to the House Labor Committee on September 29, 1948, at which time they were characterized as Communist or "ardent fellow travellers." This list was incorporated into the Un-American Activities Committee records (Hearings Regarding Communist Infiltration of Labor
332 Unions—Part I, *supra*, pp. 651-681; see, also, Exhibit No. 13).

The above information, among other, all of which I was aware of at the time of my appearance on December 5, 1949, was the basis for my apprehension that the questions were

intended for the purpose of eliciting information which might be used in framed-up criminal prosecutions against me under Section 80 of the Criminal Code, the Smith Act, and other federal statutes.

On the basis of the above, it appeared obvious to me that the questions asked were not innocently designed to elicit information from me, but rather a crude attempt on the part of the House Un-American Activities Committee to set a trap for me and lay the basis for the use of any answers that I might give to those questions for the institution of criminal prosecutions against me. The records of the Un-American Activities Committee disclose that this body had information which they considered of sufficient merit to issue reports thereon concerning the persons and organizations about whom I was asked. They had this alleged information prior to the time I appeared before that Committee on December 5, 1949. In fact, as indicated above, the Committee had already charged me with being a Communist, and it was apparent to me that these questions were deliberately designed to compel testimony out of my own mouth which might be used to secure evidence for the purpose of a frameup against me. This was confirmed later by the statement of Mr. Case of South Dakota, a member of the Committee, who told the House when the citation of contempt was brought up against me:

> "In the main our questions related to the very points on which the eleven persons were convicted under the Smith Act, to wit, activity as Communists in advocating the violent overthrow of the government or preparation for it." (Congressional Record, Vol. 96, No. 158, August 10, 1950, p. 12447).

I asserted my constitutional privilege against self-incrimination knowing then that the Constitution protected me from being forced to supply evidence or clues to evidence or links in a chain of evidence which might be used for criminal prosecutions against me. I was well aware at the
333 time that throughout the history of this country forces

hostile to the organized labor movement and leaders of labor unions have attempted from time to time to eliminate aggressive spokesmen for labor by framing them on criminal prosecutions. I had no intention of voluntarily participating in such a campaign of framed-up criminal prosecutions.

At no point in the questioning of Mr. Moulder or Mr. Tavenner did I refuse to answer any pertinent questions, nor did either Mr. Tavenner or Mr. Moulder direct or order me to answer any specific question. It had been called to my attention that in a prior hearing of the House Committee, the Chairman of the same Committee, Mr. Wood had stated,

> "On the question of your right to refuse to answer, if you feel that an answer to that question would subject you to some criminal prosecution, that you would endanger your own safety and personal liberty by an answer to that question, you have a right to refuse because the Constitution protects people from giving testimony that would tend to incriminate them and you would have a right to refuse to answer for that reason." (Hearings before Un-American Activities Committee, 81st Congress, 1st Session, Regarding Communist Infiltration of Radiation Laboratories, etc. Vol. 1, April 22, 26, May 25, June 10 and 14, 1949, at p. 297.)

Consequently, I believed and I had been advised that my assertions of the constitutional privilege do not represent in any sense legally or otherwise a refusal to answer the questions within the meaning of the statute under which I have been indicted. Moreover, during the course of a hearing before a House Labor Subcommittee in 1948, I had likewise asserted my privilege against self-incrimination in answer to certain questions and I was led to believe that I had the right to assert the privilege (Hearings Regarding Communist Infiltration of Labor Unions—Part 1, *supra*, pp. 155-158).

I have referred throughout this affidavit to exhibits of material which further illustrated the reasons why I asserted my constitutional privilege against self-incrimina-

tion. In the course of my testimony on December 5, 1949, I declared, "Because of the hysteria, I think it is my duty to endeavor to protect the rights guaranteed under the Constitution primarily the First Amendment supplemented by the Fifth. This Committee will corrupt those rights." Each and every additional question asked of me by the Committee thereafter only confirmed in my mind the need
334 to reassert the privilege against self-incrimination as guaranteed me under the Fifth Amendment. And in responding to the questions I referred back time and again to this original statement setting forth my constitutional grounds for answering in the way I did.

The reasonableness of my fears as to the purpose and intent of the Committee's questions was further confirmed when Mr. Tavenner questioned me concerning my signing of the Taft-Hartley affidavits, and evinced a clear intent on his part to obtain information which might serve as a basis for prosecution under Section 80 of the U. S. Criminal Code. I indicated to the Committee that I was fully aware of this when I declared,

> "I understand an affidavit to be an affidavit, a document that is binding when one undertakes to subscribe to it. I further understand what the motives of this Committee are, to establish a beautiful frameup to hang people who try to comply with the law. O.K. The affidavit is binding and that is that."

These questions as to the Taft-Hartley affidavit fully confirm the correctness of the newspaper reports I had read prior to my appearance before this Committee, that it was the purpose of these hearings to obtain information with reference to the "validity" of the Taft-Hartley affidavit which I had signed.

I was determined that I would not be a willing party to a criminal frameup against me which powerful forces in industry and in the government itself were anxious to bring about. I was confident that the Constitution of the United States was a bulwark upon which I could rely as a protec-

tion against a compulsory, inquisitorial process out of which a criminal prosecution might flow. Throughout the entire hearing and at all times thereafter I have never wavered in my deep conviction that I would not be a party to such a frameup. I stated this to Mr. Moulder and Mr. Tavenner at the beginning of the hearing.

I am well aware that throughout the history of
335 this country, forces in our society hostile to the organized labor movement have attempted from time to time to eliminate spokesmen for labor's rank and file by framing them on criminal prosecutions.

JULIUS EMSPAK.

Sworn to before me this 16th day of December, 1950,

DAVID RATNER.

David Ratner, Notary Public, State of New York, No. 41-3211050, Qualified in Queens County, Certs. filed with N. Y. Kings, Bronx and Westchester Co. Clks., Queens, King, N. Y. & Bronx Co. Registers, Commission Expires March 30, 1951.

HEARINGS REGARDING COMMUNIST INFILTRATION OF LABOR UNIONS—PART II

(Security Measures Relating to Officials of the UERMWA-CIO)

HEARINGS

BEFORE THE

COMMITTEE ON UN-AMERICAN ACTIVITIES

HOUSE OF REPRESENTATIVES

EIGHTY-FIRST CONGRESS

FIRST SESSION

DECEMBER 5 AND 6, 1949

Printed for the use of the Committee on Un-American Activities

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COMMITTEE ON UN-AMERICAN ACTIVITIES

UNITED STATES HOUSE OF REPRESENTATIVES

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HEARINGS REGARDING COMMUNIST INFILTRATION OF LABOR UNIONS——PART II

(Security Measures Relating to Officials of the UERMWA–CIO)

MONDAY, DECEMBER 5, 1949

UNITED STATES HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE OF THE COMMITTEE ON
UN-AMERICAN ACTIVITIES,
Washington, D. C.

The subcommittee of one met, pursuant to call, at 3:30 p. m., in room 226, Old House Office Building, Hon. Morgan M. Moulder, presiding.

Committee member present: Hon. Morgan M. Moulder.

Staff members present: Frank S. Tavenner, Jr, counsel; John W. Carrington, clerk; Benjamin Mandel, director of research; and A. S. Poore, editor.

Mr. MOULDER. The committee will come to order.

Let the record show that on November 8, 1949, the Honorable John S. Wood, chairman of the Committee on Un-American Activities, ordered, authorized, and directed Morgan M. Moulder, a member of this committee, as a subcommittee thereof, to hold, conduct, and preside over hearings scheduled for this day.

Are you ready to proceed, Mr. Tavenner?

Mr. TAVENNER. Yes. I call as the first witness Mr. Julius Emspak.

Mr. MOULDER. You solemnly swear the testimony you are about to give will be the truth, the whole truth, and nothing but the truth, so help you God?

Mr EMSPAK. I do.

TESTIMONY OF JULIUS EMSPAK, ACCOMPANIED BY HIS COUNSEL, DAVID SCRIBNER

Mr. TAVENNER. What is your full name, please?

Mr. EMSPAK. Julius Emspak.

Mr. TAVENNER. Are you represented here by counsel?

Mr. EMSPAK. Represented? No. He is with me. He is not representing me.

Mr. TAVENNER. Are you accompanied by counsel?

Mr. EMSPAK. Yes.

Mr. TAVENNER. Will counsel identify himself for the record?

Mr. SCRIBNER. David Scribner.

Mr. TAVENNER. When and where were you born, Mr. Emspak?

Mr. EMSPAK. August 6, 1904, Schenectady, N. Y.

Mr. TAVENNER. What is your present address?

Mr. EMSPAK. 49 Cliff Side Drive, Tuckahoe 7, N. Y.

Mr. TAVENNER. What is your present occupation?

Mr. EMSPAK. General secretary, United Electrical, Radio, and Machine Workers of America.

Mr. TAVENNER. Are you also a member of the executive committee of that organization?

Mr. EMSPAK. Ex officio; yes.

Mr. TAVENNER. How long have you been an official of the UE?

Mr. EMSPAK. Since its inception.

Mr. TAVENNER. And that is how long ago?

Mr. EMSPAK. Since April 1, 1936, or 1 or 2 days either way.

Mr. TAVENNER. What have been the official positions held by you since that time in UE?

Mr. EMSPAK. Just that.

Mr. TAVENNER. Will you state for the committee, please, in a general way, what your previous employment has been?

Mr. EMSPAK. Well, Mr. Chairman, I began work in the General Electric plant in Schenectady when I was old enough to get working papers, 14 years old, in January 1919, and served my apprenticeship there, working as a tool designer and so on.

Mr. TAVENNER. I would like to ask you a few questions about the organization of the UE. How many districts are there in the United Electrical, Radio, and Machine Workers of America organization?

Mr. MOULDER. How many what?

Mr. TAVENNER. Districts.

Mr. EMSPAK. The constitution prescribes 12.

Mr. TAVENNER. Are there 12 districts?

Mr. EMSPAK. Not functioning; no.

Mr. TAVENNER. A district normally comprises what territory?

Mr. EMSPAK. It is a geographical and industrial entity that we try to develop as a district. They vary in size both as to area and membership.

Mr. TAVENNER. How many locals are there in UE?

Mr. EMSPAK. Perhaps 400. I can't give you the exact number. I just don't have it in my head.

Mr. TAVENNER. Aren't there considerably more than 400 locals?

Mr. EMSPAK. No. Perhaps you are thinking of the contracts with employers.

Mr. TAVENNER. How many rank and file members are there in the UE?

Mr. EMSPAK. We represent in collective bargaining approximately half a million, covered by collective bargaining agreements.

Mr. TAVENNER. You have persons known as organizers, do you not?

Mr. EMSPAK. Oh, of course.

Mr. TAVENNER. What are their functions?

Mr. EMSPAK. To service the local unions, organize the unorganized, help the local unions negotiate agreements, and so on.

Mr. TAVENNER. Are they pretty close to the rank and file of the membership?

Mr. EMSPAK. Yes. They usually live in the communities where they work.

Mr. TAVENNER. How many organizers are there at one time in your union?

Mr. EMSPAK. At one time?

Mr. TAVENNER. Yes.

Mr. EMSPAK. It is not a static number. I suppose 120 or 130.

Mr. TAVENNER. Are they assigned to the various districts?

Mr. EMSPAK. Yes, and locals.

Mr. TAVENNER. How are the organizers selected?

Mr. EMSPAK. Recommendations of people, local unions, individual members, and so on.

Mr. TAVENNER. The local members make recommendations?

Mr. EMSPAK. On occasions they do.

Mr. TAVENNER. Then who does the appointing?

Mr. EMSPAK. The general executive board.

Mr. TAVENNER. The executive board. How many are on the executive board?

Mr. EMSPAK. Twenty.

Mr. TAVENNER. Twenty?

Mr. EMSPAK. Plus three officers.

Mr. TAVENNER. Plus the three officers, of whom you are one?

Mr. EMSPAK. Yes.

Mr. TAVENNER. You have in your organization what are known as international representatives; have you not?

Mr. EMSPAK. Correct.

Mr. TAVENNER. Will you describe the duties of international representatives?

Mr. EMSPAK. They are in effect, in charge of a group of organizers in a given area or district, working in conjunction with the district officials.

Mr. TAVENNER. They assist in negotiating contracts?

Mr. EMSPAK. Yes. Their functions are essentially the same as the functions of organizers except they coordinate the activities of the staff and they are superior to the organizers, if you want to call it that.

Mr. TAVENNER. How many international representatives are there in UE?

Mr. EMSPAK. I can't give you the exact number. I suppose 15 or 20.

Mr. TAVENNER. How are they selected?

Mr. EMSPAK. Out of the staff. The organizers usually are promoted.

Mr. TAVENNER. And they are selected by the executive committee?

Mr. EMSPAK Yes.

Mr. TAVENNER You have also what is known as a business agent?

Mr. EMSPAK. They are employees of local unions.

Mr. TAVENNER. How are they selected?

Mr. EMSPAK. The membership of the local usually elects them.

Mr. TAVENNER. Is their appointment or selection ratified or approved by the executive committee?

Mr. EMSPAK. No.

Mr. TAVENNER. How many business agents represent the union at any one time?

Mr. EMSPAK. That I can't answer. I just don't know.

Mr. TAVENNER. Briefly, what are the duties of the executive committee, of which you are a member?

Mr. EMSPAK. Administer the affairs of the national organization.

Mr. TAVENNER. Determine policy of the organization?

Mr. EMSPAK. No; the convention determines policy.

Mr. TAVENNER. Does the executive committee have any function in the negotiating of contracts or wage disputes?

Mr. EMSPAK. No; other than whatever the framework of the collective-bargaining policy happens to be at a given time.

Mr. TAVENNER. In the adjustment of grievances which may occur from time to time, what part do the officials of the UE play in such adjustments?

Mr. EMSPAK. It depends on the nature of the grievance and what the situation may be. By and large that is a routine administrative job that the locals handle themselves. A grievance is something that develops on a job, and most of the grievances are handled within the locals. National officers as such rarely participate.

Mr. TAVENNER. Will you give examples of instances in which the officials or the members of the executive board have functioned in settling or adjusting grievances?

Mr. EMSPAK. Will you repeat that?

Mr. TAVENNER. I say, will you give me an illustration, or cite instances, of when officials or members of the executive board function in the adjustment of grievances?

Mr. EMSPAK. You mean a specific type of case?

Mr. TAVENNER. Yes, and the procedure.

Mr. EMSPAK. Well, I haven't been involved in one in several years, and I would have to search my memory to tell you that. I can go back in history and give you examples of them.

Mr. TAVENNER. Suppose you do that.

Mr. EMSPAK. Understand, I am playing entirely by ear on this one. I recall some years ago a grievance arising in a plant of the General Electric Co. involving two men in a midwestern plant, which could not be settled locally, and it finally landed in the national office. I went out there and talked with the local management, and met with our committee, and had a joint meeting of the committee and management, and called the vice president of the company in charge of manufacturing and had a long conversation with him on the phone, and finally worked out an approach to it and it was resolved. Other times we would have formal meetings set up and carry on regular discussions on the basis of forms that were made out, whether it is a dispute on wages or lay-off or whatever it might be.

Mr. TAVENNER. What other types of services do officials or members of the executive committee render the rank and file in the way of adjustment of grievances?

Mr. EMSPAK. We provide all sorts of information. We provide the information and personnel necessary to work out a given problem. That is our main job.

Mr. TAVENNER. Does that require your going on the job?

Mr. EMSPAK. On occasion we go in the field; yes.

Mr. TAVENNER. Is that frequently done, or infrequently done?

Mr. EMSPAK. Rather frequently. After all, problems are constantly pressing. That is the chief reason for the existence of the organization.

Mr. TAVENNER. The union has a contract with various employers, I suppose, in which your union is recognized as the bargaining agent in any disputes that might arise between labor and management?

Mr. EMSPAK. Yes.

Mr. TAVENNER. How many contracts, roughly speaking, do you have with employers?

Mr. EMSPAK. Approximately 1,500.

Mr. TAVENNER. That covers the work being performed in approximately how many plants?

Mr. EMSPAK. That many plants. No; I take that back; roughly that many plants, but a few more plants than that, because some national agreements cover a number of plants.

Mr. TAVENNER. In negotiating those contracts, and in the settlement of disputes arising under them, do the officers and members of the executive committee visit those plants?

Mr. EMSPAK. No; we don't go into plants, if that is what you mean. We go to local union meetings and have district meetings and national conferences with delegates from those plants, and so on, and work out whatever has to be worked out, whether a collective-bargaining agreement or an approach to a grievance settlement.

Mr. TAVENNER. Are there occasions when the officers and members of the executive committee are required to exercise disciplinary action over lesser officials and rank and file members of the union?

Mr. EMSPAK. I don't know what you mean when you say disciplinary action. We don't operate the way some or most unions do. Essentially—not essentially, but in every instance—the membership ultimately makes the decision on any proposition. Sometimes we may find ourselves where our point of view is not carried; other times it is. That goes on every day.

Mr. TAVENNER. In the event there is an infraction of the rules of your union, what action is taken or may be taken by your committee?

Mr. EMSPAK. The membership of the local union where it occurs, or area where it occurs, makes the decision on that, with a right to appeal to the convention, which takes place every year.

Mr. TAVENNER. You spoke of virtually 1,500 plants which are covered by contracts with the UE. In how many of these plants do you consider there is being done classified or restricted work for the Army, Navy, or Air Corps?

Mr. EMSPAK. I have no way of knowing.

Mr. TAVENNER. You have no way of knowing in which plants restricted work is being done?

Mr. EMSPAK. No.

Mr. TAVENNER. Is it being done in a considerable number?

Mr. EMSPAK. I just can't answer that. I can't give you a sensible answer to that.

Mr. TAVENNER. Does the UE have an official publication?

Mr. EMSPAK. Yes.

Mr. TAVENNER. What is the name of it?

Mr. EMSPAK. UE News.

Mr. TAVENNER. Where is it published?

Mr. EMSPAK. New York.

Mr. TAVENNER. How is it financed?

Mr. EMSPAK. Dues of the membership.

Mr. TAVENNER. Collected through the union?
Mr. EMSPAK. Local unions.
Mr. TAVENNER. And paid by——
Mr. EMSPAK. Paid by the individual members to the local union.
Mr. TAVENNER. And the local union——
Mr. EMSPAK. Transmits a portion of that to the general office.
Mr. TAVENNER. And the general office pays for the financing of the paper?
Mr. EMSPAK. Yes.
Mr. TAVENNER. How is the editor of that paper selected?
Mr. EMSPAK. Officially I am the editor.
Mr. TAVENNER. You are at the present time?
Mr. EMSPAK. Yes.
Mr. TAVENNER. How long have you been editor?
Mr. EMSPAK. Since we set up the union.
Mr. TAVENNER. How were you selected?
Mr. EMSPAK. By the executive board. The constitution provides that one of the paid officers be designated editor.
Mr. TAVENNER. Is the editorial policy of the paper controlled and directed by the executive board?
Mr. EMSPAK. The basic editorial policy is controlled by convention decision.
Mr. TAVENNER. Does the executive board function also in that connection?
Mr. EMSPAK. The function of the executive board is to carry out the affairs of the union between conventions on the basis of the policy decisions of the convention.
Mr. TAVENNER. Mr. Emspak, are you acquainted with Joseph Persily?
Mr. EMSPAK. Mr. Chairman, I would like to say something at this point.
Mr. MOULDER. You mean in response to the question?
Mr. EMSPAK. I will answer the question; yes, in response to the question and as a statement of position.
What I say revolves around two points, one organizationally and another as an individual. Organizationally, my job as an officer of this union is to represent the interest of the membership as they determine it at the annual conventions and at other means they have of getting together and expressing themselves. My job is to administer that aspect to the best of my ability, using one very simple measuring stick, and that is: Does a given policy or action contribute to the well-being of the membership, individually and collectively?
As an individual I would like to say one thing, and that is this: The line of questioning that counsel is developing now is a line that has been used on numerous occasions by this committee and other congressional committees in an attempt to harass the union, its leadership, and its members. It is a line of questioning that goes against my grain as an American. I was born in this country. Everything I am——
Mr. MOULDER. How long will this statement take, Mr. Emspak?
Mr. EMSPAK. About two or three more minutes.
Mr. MOULDER. Proceed.
Mr. EMSPAK. Everything I am, I owe to the rich heritage and tradition of this country. I do not believe that a committee of this kind,

especially in view of the recent record of this committee where it stooped to interfere in the partisan affairs of a local union, or any congressional committee, because of the rich tradition of this country which, if not perverted, will lead to a greater and better country—I don't think a committee like this or any subcommittee has a right to go into any question of my beliefs, my associations, or anything else. I have a couple of kids. They have a stake in this country, too.

Mr. MOULDER. I want to give you full opportunity to express yourself in answer to the question, but you are making an oration now.

Mr. EMSPAK. It is not an oration. It happens to be a very profound personal feeling.

Mr. MOULDER. What is the question?

Mr. TAVENNER. The question is: Are you acquainted with Joseph Persily.

Mr. MOULDER. How do you spell that?

Mr. TAVENNER. P-e-r-s-i-l-y.

Mr. EMSPAK. Because I have a stake in this country——

Mr. MOULDER. You are not answering the question. He asked you if you are acquainted with this man.

Mr. EMSPAK. I will answer it.

Mr. MOULDER. Are you or not?

Mr. EMSPAK. I was on the verge of answering it.

Mr. MOULDER. If you have any explanation to make you will be permitted to do so after you answer the question.

Mr. EMSPAK. Because of my interest in what is going on these days, because of the activities of this committee——

Mr. MOULDER. Are you going to answer the question?

Mr. EMSPAK. Because of the hysteria, I think it is my duty to endeavor to protect the rights guaranteed under the Constitution, primarily the first amendment, supplemented by the fifth. This committee will corrupt those rights.

Mr. MOULDER. Do you think it corrupts you to answer the question?

Mr. EMSPAK. I certainly do.

Mr. MOULDER. Why does it corrupt you?

Mr. EMSPAK. Your activities are designed to harm the working people of this country. Every action this committee has ever taken has done that. You interfered last summer in the election of a local union at the request of a priest. You know that. You dragged down the prestige of this country.

Mr. MOULDER. You are not going to take over this committee.

Mr. EMSPAK. I don't want to.

Mr. MOULDER. And your statements are preposterous. The purpose of this committee is to expose communism as it exists in this country. What is the question?

Mr. TAVENNER. Are you acquainted with Joseph Persily?

Mr. EMSPAK. For the reasons I stated before, I answered it.

Mr. MOULDER. Then you refuse to answer the question?

Mr. EMSPAK. No. I answered it.

Mr. TAVENNER. Are you or are you not acquainted with Joseph Persily?

Mr. EMSPAK. I answered the question.

Mr. TAVENNER. Your replies are a refusal to comply with the request to answer it?

(Witness confers with his counsel.)

Mr. MOULDER. The record will reveal that you have not answered the question.

Mr. EMSPAK. I have answered it to the best of my ability under the circumstances.

Mr. MOULDER. Any further questions?

Mr. TAVENNER. Yes. In what capacity is Joseph Persily associated with the UE at this time?

Mr. EMSPAK. It is the same question over again. I will give the same answer.

Mr. TAVENNER. Is he an organizer in the UE?

Mr. EMSPAK. Mr. Chairman, it is the same question.

Mr. TAVENNER. You refuse to answer that?

Mr. EMSPAK. I answered it.

Mr. TAVENNER. Are you acquainted with Albert Smith?

Mr. EMSPAK. The same answer applies to that.

Mr. TAVENNER. In other words, you are refusing to answer whether you are acquainted with him or not?

Mr. EMSPAK. I have answered the question as I see the answer.

Mr. TAVENNER. Is he employed by UE?

Mr. EMSPAK. Mr. Chairman, I answered the question.

Mr. MOULDER. Could you tell us who those people are, Mr. Counsel?

Mr. EMSPAK. Excuse me, please.

(Witness confers with his counsel.)

Mr. TAVENNER. Joseph Persily and Albert Smith are the two persons whose names were mentioned.

Mr. MOULDER. Who is Joseph Persily?

Mr. TAVENNER. I thought he was connected with the UE, but I am unable to understand from this witness what the connection is, if any.

Mr. MOULDER. Do our records reveal who he is?

Mr. TAVENNER. I do not know whether they do or not, Mr. Chairman.

Mr. Emspak, has Max Helford ever been connected with UE as a field organizer?

Mr. EMSPAK. Mr. Chairman, on these questions, which are all essentially the same, of course, when this hearing was announced according to the press reports, at least, it was announced because this committee presumably was interested in finding out things with reference to individuals in our organization by using whatever means it has at its disposal, and for the purpose of trying to perhaps frame people for possible criminal prosecution.

I don't see how or why any individual should be subjected to that kind of questioning here if he is going to maintain, you know, his feelings on these questions, and I tried to express the feeling before when you interrupted me. I just don't intend, as I said then, to be a party to any kangaroo court proceedings of this committee or any other congressional committee. I think I have the right to reserve whatever rights I have in that respect to whatever appropriate bodies may be set up to deal with questions that come up.

Mr. MOULDER. Do you mean to say you have people in your organization who have information that would subject you to criminal prosecution?

Mr. EMSPAK. No; I don't, Mr. Chairman. As a basic proposition—and it has worked over the years and over the last few months as far as this committee is concerned—a slick job——

Mr. MOULDER. Do you know them or not?

Mr. EMSPAK. That does not concern this committee at all.

Mr. MOULDER. Is it your feeling that to reveal your knowledge of them would subject you to criminal prosecution?

Mr. EMSPAK. No. I don't think this committee has a right to pry into my associations. That is my own position.

Mr. TAVENNER. Is Max Helford at the present time a field organizer for the UE?

Mr. EMSPAK. Mr. Chairman, that is repetition of basically the same question, and the same answer stands.

Mr. TAVENNER. Was Phil Saba originally from local 155?

Mr. EMSPAK. I answered that question.

Mr. TAVENNER. And is he now a field organizer for the UE in district 1?

Mr. EMSPAK. I answered that question and that is the only answer I will give on any of my associations, for the reasons stated.

Mr. TAVENNER. Is Hank Rhine presently an international representative of the UE?

Mr. EMSPAK. Same answer.

Mr. TAVENNER. Is Jack Gorelick now affiliated with the UE?

Mr. EMSPAK. Same answer.

Mr. TAVENNER. Is Ernest Moyer a field organizer for UE in the Easton area?

Mr. EMSPAK. Same answer.

Mr. TAVENNER. Do you know James Lustig?

Mr. EMSPAK. Same answer.

Mr. TAVENNER. Is he an international representative of UE?

Mr. EMSPAK. We can go on endlessly like this, I suppose, but the same answer holds.

Mr. TAVENNER. Is Morris Kersten an international representative of UE?

Mr. EMSPAK. Same answer.

Mr. TAVENNER. Is Fred Haug an international representative of UE?

Mr. EMSPAK. Same answer.

Mr. TAVENNER. Is Charles Newell an international representative of UE?

Mr. EMSPAK. Same answer.

Mr. TAVENNER. Is Leo Turner a field organizer in district 6?

Mr. EMSPAK. Same answer.

Mr. TAVENNER. Is Hugh Harley a field organizer for UE?

Mr. EMSPAK. Same answer.

Mr. TAVENNER. Is Arthur Garfield an international representative of UE?

Mr. EMSPAK. Same answer.

Mr. TAVENNER. Is Ernest DeMaio presently an international representative of UE?

Mr. EMSPAK. Same answer.

Mr. TAVENNER. Is Henry Fiering a field organizer for the UE?

Mr. EMSPAK. Same answer.

Mr. TAVENNER. Is Herbert Hirschberg an international representative of UE?

Mr. EMSPAK. Same answer.

Mr. TAVENNER. Is K. M. Kirkendall a field organizer of the UE?
Mr. EMSPAK. Same answer.
Mr. TAVENNER. Is Robert Harrison a field organizer of the UE?
Mr. EMSPAK. Same answer.
Mr. TAVENNER. Is William Santora a field organizer of the UE?
Mr. EMSPAK. Same answer.
Mr. TAVENNER. Is Marcel Scherer an international representative of the UE?
Mr. EMSPAK. Same answer.
Mr. TAVENNER. Is Louis I. Sorti a field organizer of the UE?
Mr. EMSPAK. Same answer.
Mr. MOULDER. Same answer is your refusal to answer for the reasons given?
Mr. EMSPAK. I gave specific reasons why I felt I should not participate in this kind of questioning, and I stand by that.
Mr. TAVENNER. Is Philip V. Gelder an international representative of the UE?
Mr. EMSPAK. Same answer.
Mr. TAVENNER. Is Perez Zagorin a field organizer of the UE?
Mr. EMSPAK. Same answer.
Mr. TAVENNER. Is Carl Brant connected or associated in any way as an international representative or otherwise with UE?
Mr. EMSPAK. Same answer.
Mr. TAVENNER. Is Al Clough a field organizer?
Mr. EMSPAK. Same answer.
Mr. TAVENNER. Is Kermit Kirkendall a field organizer?
Mr. EMSPAK. Same answer.
Mr. TAVENNER. Is John Thomas a field organizer?
Mr. EMSPAK. Same answer.
Mr. TAVENNER. Is Fred Keller a field organizer with UE?
Mr. EMSPAK. Same answer.
Mr. TAVENNER. Is John Mitchell a field organizer?
Mr. EMSPAK. Same answer.
Mr. TAVENNER. Is Fred Sheppart a field organizer?
Mr. EMSPAK. Same answer.
Mr. TAVENNER Is L. B. Slagle a field organizer with UE?
Mr. EMSPAK. Same answer.
Mr. TAVENNER. Is Martin Sramek a field organizer with UE?
Mr. EMSPAK. Same answer.
Mr. TAVENNER. Is Robert B. Logsdon an international representative of UE?
Mr. EMSPAK. Same answer.
Mr. TAVENNER. John Bittman is a field organizer, is he not?
Mr. EMSPAK. Same answer.
Mr. TAVENNER. Is William B. Elconon an international representative?
Mr. EMSPAK. Same answer.
Mr. TAVENNER. Is H. M. Martinson a field organizer?
Mr. EMSPAK. Same answer.
Mr. TAVENNER. Is Anthony DeMaio an international representative of your union?
Mr. EMSPAK. Same answer.
Mr. TAVENNER. Is Irene Berman an international representative?
Mr. EMSPAK. Same answer.

Mr. TAVENNER. Is Allan Bjorklund a field organizer?
Mr. EMSPAK. Same answer.
Mr. TAVENNER. Is Thomas Foley a field organizer?
Mr. EMSPAK. Same answer.
Mr. TAVENNER. Is Robert Kirkwood an international representative?
Mr. EMSPAK. Same answer.
Mr. TAVENNER. Is Lee Lundgren an international representative?
Mr. EMSPAK. Same answer.
Mr. TAVENNER. Is William Mauseth a field organizer?
Mr. EMSPAK. Same answer.
Mr. TAVENNER. Is William Sheehan a field organizer?
Mr. EMSPAK. Same answer.
Mr. TAVENNER. Is Phillip H. Smith an international representative with the UE?
Mr. EMSPAK. Same answer.
Mr. TAVENNER. Do you know John T. Bernard?
Mr. EMSPAK. Same answer.
Mr. TAVENNER. Is he a field organizer for the UE in the Chicago district?
Mr. EMSPAK. Same answer.
Mr. TAVENNER. Is Peter Besch an international representative?
Mr. EMSPAK. Same answer.
Mr. TAVENNER. Is T. Louis Majors an international representative?
Mr. EMSPAK. Same answer.
Mr. TAVENNER. Is Robert McNaughton a field organizer?
Mr. EMSPAK. Same answer.
Mr. TAVENNER. Is John Paradise a field organizer?
Mr. EMSPAK. Same answer.
Mr. TAVENNER. Is Nick Tomasetti a field organizer?
Mr. EMSPAK. Same answer.
Mr. TAVENNER. Mr. Emspak, have you ever been affiliated with the National Federation for Constitutional Liberties?
Mr. EMSPAK. I answered that, Mr. Chairman.
Mr. TAVENNER. I say, have you ever been affiliated with such an organization?
Mr. EMSPAK. I answered that.
Mr. M OULDER. You mean you refuse to answer for the reasons previously stated?
Mr. EMSPAK. I answered it in the terms I did when I said as far as my associations and affiliations are concerned, that is something a committee of this kind should not pry into.
Mr. TAVENNER. In other words, you do not care to disclose whether you are affiliated with that organization?
Mr. EMSPAK. I answered that.
Mr. TAVENNER. Mr. Emspak, were you not a signer of a statement which hailed the War Department's order for commissions for Communists?
Mr. EMSPAK. Same answer.
Mr. TAVENNER. Mr. Emspak, do you know that the National Federation for Constitutional Liberties has been cited as a subversive organization by two Attorneys General, as well as by the Committee on Un-American Activities?
Mr. EMSPAK. It may have been. I don't know.

Mr. TAVENNER. Mr. Emspak, were you a sponsor of the so-called Win the Peace Conference held in Washington, D. C., on April 5 to 7, 1946?

Mr. EMSPAK. Same answer to that.

Mr. TAVENNER. You are acquainted, are you not, with the fact that the organization has been cited as Communist and subversive by the Attorney General and by this committee?

Mr. EMSPAK. Not necessarily. I don't recall.

Mr. TAVENNER. You don't recall, or you weren't concerned enough——

Mr. EMSPAK. I just don't recall.

Mr. TAVENNER. Mr. Emspak, have you ever been associated with the Civil Rights Congress?

Mr. EMSPAK. Again, basically the whole line of questions is the same, so I will say I take the same position I expressed earlier.

Mr. TAVENNER. Are you familiar with the fact that the Civil Rights Congress has also been cited as a Communist-front organization by the Attorney General?

Mr. EMSPAK. Same answer.

Mr. TAVENNER. Are you acquainted with Louis Budenz?

Mr. EMSPAK. Same answer.

Mr. TAVENNER. Louis Budenz was former editor of the Daily Worker, was he not?

Mr. EMSPAK. Same answer.

Mr. TAVENNER. You are acquainted with the fact, are you not, that on March 18, 1947, in testimony before a committee of Congress, he identified you as a member of the Communist Party?

Mr. EMSPAK. Whatever Budenz does, don't ask me to underwrite. Sure, I am acquainted with him.

Mr. TAVENNER. You know that he did so identify you as a member of the Communist Party. Do you desire to deny it?

Mr. EMSPAK. I have no desire to express any opinion on my associations to this committee, for the reasons I stated.

Mr. TAVENNER. So you decline to deny or affirm that you were a member of the Communist Party?

Mr. EMSPAK. I answered the question.

Mr. TAVENNER. Are you acquainted with James MacLeish?

Mr. EMSPAK. Same answer.

Mr. TAVENNER. Is he now president of District 4, United Electrical, Radio, and Machine Workers of America?

Mr. EMSPAK. Same answer.

Mr. TAVENNER. Are you acquainted with Salvatore M. Vottis?

Mr. EMSPAK. Same answer.

Mr. TAVENNER. That is all you care to say about that?

Mr. EMSPAK. Same answer, that is all.

Mr. TAVENNER. On July 25, 1947, Mr. Emspak, Mr. Vottis, in sworn testimony before this committee, stated that he had attended fraction meetings of the Communist Party along with you and other members of the UE. Do you deny or affirm the statement made by Mr. Vottis?

Mr. EMSPAK. I won't discuss it at all other than in the terms I have.

Mr. TAVENNER. Mr. Emspak, Mr. Vottis also testified you attended Communist Party meetings held in his home in Schenectady, N. Y. Do you deny or affirm that statement?

Mr. EMSPAK. I neither deny nor affirm it, Mr. Chairman.

Mr. TAVENNER. You have already testified that from the inception of the organization of UE News you have been its editor. I will make several rather long statements as a basis for questions which I would like to ask you.

Before August 1939 the Comintern and its affiliated Communist Parties attacked Hitler as a warmonger and nazism as barbarism. The American Communist Party and affiliates of the Soviet Communist Party demanded international boycotts and blockades.

A review of UE News for the period mentioned reveals it had the same attitude as the Communist Party toward Hitlerism. For instance, the UE News, in its first issue of 1939, praised the idea of an embargo on Germany, and on January 14 UE News carried a critical story on forced labor in Germany. On March 25 it reviewed Hitler's promises of nonaggression and deplored the rape of Czechoslovakia. But in August 1939 the Hitler-Stalin pact was signed, and Commissar Molotov on that occasion remarked that: "Fascism, after all, is a matter of taste."

A week after the signing of the pact, World War II began when the Nazis invaded Poland. The American Communist Party line quickly reversed itself, along with the Communist Parties of all other countries, and, until June 22, 1941, the Communist press was filled with attacks on American and British leaders. The war was denounced as an imperialist war and President Roosevelt became a warmonger. Aid to Britain and the other countries fighting Hitler were violently opposed, as were proposed amendments to the neutrality law which would allow England to purchase munitions.

The UE News, like the Communist Party, reversed its sentiments concerning the Hitler government and quickly took the position that the war was a profiteers' war. The UE News said that—

> Labor in America, watching the sorry sight, is watchful lest our own tories involve us in the conflict.

On September 30, 1939, the UE News, in a full-page editorial entitled "Let's Do Our Fighting Here" declared that—

> The war that is going on is no exception to the rule that wars are fought for money. American labor wants no part of this fishy war.

For the rest of the year 1939 the UE News praised the fight of the so-called isolationists in Congress, and on November 11, 1939, attacked Congress for making the United States "the arsenal of the world." The administration was condemned by the UE News as "bomb peddlers."

Mr. Emspak, could you explain why the UE News, of which you were editor at the time, followed the line of the Communist Party and expressed the same views as the Communist Parties of the world both before and after the signing of the Hitler-Stalin pact?

Mr. EMSPAK. UE News followed the line expressed by the membership at its conventions, and the line to the best interests of the working people. I think any time we can do anything at all to fight fascism and war, we are helping the people. The fact that the line followed by UE News coincided with the Communist Party line is purely coincident. Whenever we can do anything to help the laboring people, we do it.

Mr. TAVENNER. So it was a coincidence that the policy of the UE News coincided with the Communist Party line?

Mr. EMSPAK. The policy of UE News is determined by the membership at the conventions.

Mr. TAVENNER. Mr. Emspak, in 1940 the Communist Party's antiwar and isolationist line was continued and intensified. President Roosevelt was vilified as a warmonger and dupe of British imperialism. Throughout the United States the Communist Party held "peace rallies" and "keep America out of war" meetings. There were marches on Washington and numerous petition campaigns. Lend-lease was denounced as were moves to modify the Neutrality Act. Aid to Britain of any kind was opposed. One piece of propaganda, a pamphlet entitled "The Yanks Are Not Coming" which was written by a west coast Communist was of particular interest to the Communist Party.

A review of the UE News for the same period reflects that, like the Communist Party, it attacked President Roosevelt as a warmonger and charged that "the forgotten man has yielded to the man in uniform as the chief object of concern of the national administration."

On January 20, UE News said that "national defense is a gag." Also on January 20, 1940, UE officials in district 6 signed a proclamation declaring that "The Yanks are positively not coming."

Throughout the year, in numerous stories and editorials, UE News denounced United States foreign policy and aid to the allies. On February 24, 1940, UE News devoted a full page to the Communist pamphlet The Yanks Are Not Coming, and, like the Communist Party, praised the pamphlet as a history-making publication.

On June 8, 1940, James MacLeish, president of district 4 of the UE, issued a statement which claimed that—

> A war hysteria is being developed with terrific speed in the United States. The entire Federal administration, including the President, is giving leadership to this campaign.

The UE News, on July 20, 1940, attacked the Selective Service Act and on September 21, 1940, demanded its repeal.

Mr. Emspak, can you explain how it was that the UE News during the year 1940 followed the program of the Communist Party without deviation in its attitude toward the Second World War?

Mr. EMSPAK. UE News did not follow the line of the Communist Party, Mr. Chairman. UE News followed the line the membership developed for themselves in the UE.

Mr. TAVENNER. Was it the Communist membership in the UE that developed that policy which was the same as the policy of the Communist Party?

Mr. EMSPAK. We have no political tests in our organization. A member expresses any views he wants to, and one member does not make a decision.

Mr. TAVENNER. In 1940 the Communist Party also violently opposed the President's plan to lend United States arms to England and his proposal to transfer the group of over-age destroyers to Britain in return for Atlantic bases.

During 1940, while the Hitler-Stalin pact was still in effect, very little criticism of Hitler and nazism was contained in the Communist press. The Communist Party and the Daily Worker repeatedly at-

tacked Sidney Hillman and his work in the Office of Production Management and the War Production Board.

In 1940 the Communist Party was fanatically opposed to President Roosevelt and ran its own Presidential candidate, Earl Browder. On April 8 and 9, 1940, Germany invaded Norway and Denmark. The Communists defended this invasion on the ground that Norway and Denmark were provoking Hitler. On June 15, 1940, Russia invaded Latvia, Estonia, and Lithuania, and occupied these Baltic countries. The Communist Parties throughout the world hailed the invasion of the three countries by the Soviets as a great military victory for Stalin.

On September 27, 1940, Germany, Italy, and Japan signed the Axis Pact. The Communist line was that this pact was justified because of the imperialist designs of England and the United States.

During the same period, the UE News opposed the transfer of overage destroyers to England, particularly in its issue of September 14, 1940. On December 28, 1940, it attacked the President's proposal to lend England a quantity of American arms. During 1940 the UE News reflected the Daily Worker and the Communist press, printing no more than one or two small items speaking harshly about Hitler and nazism.

On October 19, 1940, the UE News attacked Sidney Hillman's work in the national-defense agencies, despite the fact that Hillman at the time was the president of another CIO union. Throughout the year 1940 the UE News attacked the President, despite its endorsement of the previous year of the third term. During the same year, like the Daily Worker, it failed to criticize the German invasion of Norway and Denmark. Strangely, there was no comment from the UE officials or from the UE News on the Soviet occupation of the Baltic countries. UE News and the UE officials at no time during the year 1940 criticized the formation of the Fascist Axis which was created on September 27, 1940.

Mr. Emspak, could you explain how the UE News adhered to the same line as the Communist Party, changing each time the Communist Party changed?

Mr. EMSPAK. Of course, I denied that it adhered to it. I told you before, and repeat again, that whatever appears in that paper, whatever appeared then or now, appears as a result of whatever the basic policy of the union as such is. It certainly is not an organ of the Communist Party, nor are your attempts to prove it so by these long statements going to succeed, because it just isn't so.

Mr. TAVENNER. The most active Communist front during the first 7 months of 1939 was the American League for Peace and Democracy. However, when the Hitler-Stalin Pact was signed in August 1939, the American League for Peace and Democracy, of which I believe you were a member, was dissolved promptly.

Immediately thereafter the Communists created the American Peace Mobilization, and the White House was picketed with signs declaring "The Yanks Are Not Coming," and the American Peace Mobilization sent numerous delegations to Washington to exert pressure on Congressmen who agreed with President Roosevelt on aid to England and the Allies.

Mr. Emspak, officials of the UE were prominent in the American League for Peace and Democracy, and when the League was dissolved

these officials promptly switched to the new Communist creation called the American Peace Mobilization.

Can you explain why the UE in this particular instance followed the same line as the Communist Party?

Mr. EMSPAK. Well, Mr. Chairman, I just don't get this. I do, of course, in a very real way, but basically you are asking the same recurring question as to whether the UE News was an organ of the Communist Party, which it isn't. It reflects the views of the UE membership, and that is that.

Mr. TAVENNER. In other words, you contend there was no influence or pressure brought to have the editorial policy of the UE News follow the Communist Party line, though it did follow it?

Mr. EMSPAK. Not only do I contend it, I assert it didn't.

Mr. TAVENNER. In 1941 the Communist Party line regarding the Second World War was a continuation of its 1940 position. The national-defense program was constantly condemned, aid to England was violently opposed, and the Communist Party and its front organizations lobbied against lend-lease, against the loan of arms to England, and every other move in and out of Congress designed to assist England and stop the Nazi world conquest.

The UE News on January 11, 1941, attacked the President's message to Congress asking for increased defense funds and aid to the Allies. Also on January 11, the UE News, on page 4, carried an article in which you attacked Sidney Hillman for serving as a member of the National Defense Advisory Committee.

On January 25, 1941, the UE News devoted a full page to the American Peace Mobilization, which had you as a member of its national council.

The American Peace Mobilization, even on the very day that Hitler attacked Russia, was picketing the White House. On June 17, 1941, just 5 days before Hitler's invasion of Russia, James MacLeish, president of district No. 4 of the UE, attacked the Defense Mediation Board, and on June 7, 1941, on page 3 of the UE News, district No. 6, Council of the United Electrical Workers, declared:

> It is becoming clearer every day that the heat is on to wind up a drive to push us into war, being conducted by big business interests who stand to profit and by the administration of Franklin D. Roosevelt and the Republican and Democratic Parties.

Mr. Emspak, can you explain how it was that you and your organization's newspaper, the UE News, followed the Communist Party line which I have outlined in my question?

Mr. EMSPAK. UE News did not follow the Communist Party line. UE News is not the organ of a foreign power. UE News is a trade-union paper governed by the policies of the membership of the union.

Mr. TAVENNER. Also prior to the date of the attack by Germany upon Russia, the Communists in the United States were in favor of strikes in defense industries. For instance, when Wyndham Mortimer, a known Communist, called a strike at the crucial North American Aviation plant at Inglewood, Calif., the Communist Party and its press gave it their full support. The President eventually ordered Government seizure of this important defense plant; and, as a result, the Communist press said that this move was outright fascism and meant the end of civil liberties in this country.

Despite the fact that Phil Murray instructed the strikers to return to work, the UE supported the North American strike. On June 14, 1941, the UE News condemned Government intervention and declared, editorially:

> As war fever reaches a new high, more and more openly the forces of the Government are being turned to the suppression of the people's democratic liberties for the announced purpose of "defending democracy."

You, yourself, proclaimed that the Government action—

> has parallel only in the blackest pages of history in this country.

Mr. Emspak, again I ask you how it was that you and the organ of your organization supported the Communists in the North American Aviation strike?

Mr. EMSPAK. We supported the North American Aviation strike, but we didn't support the Communists. I said then, and I repeat again what I said then about the use of troops in a labor dispute. Our country was not at war. It was 2 years before our country was at war.

Mr. TAVENNER. On June 22, 1941, Hitler invaded Russia, and the Communist Party, within the space of 2 hours, completely reversed the party line. The war they had been calling an "imperialist" war became a "people's" war and a "great democratic crusade." Hitler, for whom the Communists had no harsh words for the past year and a half, became a raving beast. The President, who was reviled as a warmonger on June 21, on June 22 became a great democratic leader. The Communist opposition to aid for England and the Allies was transformed into a tremendous campaign for all-out assistance to every nation lined up against Hitler. The class struggle was suspended by the Comintern, and Earl Browder publicly declared that he was willing to work with J. P. Morgan and the National Association of Manufacturers.

Mr. Emspak, the line of the UE News and of its officials after the invasion of Russia by Hitler was changed to the same line as that of the Communist Party. For instance, Local 1224, in the first issue of UE News following the invasion of Russia, passed a resolution demanding immediate aid to the Soviet Union. District 4, in the July 5, 1941, issue of UE News, went on record demanding that "the Soviet Union, Great Britain, and all others sincerely fighting the Fascist Axis be accorded the fullest assistance to avail themselves of our industrial or material resources."

On July 10 in UE News, district No. 1 council announced that it "supports without reservation all-out aid for Britain, China, and the Soviet Union."

Also, the Communist Party said that nothing must interfere with war production. Strikes were outlawed, and Earl Browder said he could see no reason why the wartime amity between labor and employers could not continue.

The UE on July 26, 1941, proposed that President Roosevelt should "immediately call a national conference of labor, agriculture, Government, and industry."

Mr. Emspak, can you explain how it was that prior to the attack by Germany upon Russia the UE supported strikes in defense plants the same as the Communist Party, whereas after the attack by Hitler upon Russia the UE, the same as the Communist Party, opposed strikes in defense industries?

Mr. EMSPAK. The UE didn't take any position on strikes as such until after Pearl Harbor. Then we made a commitment to our Government on strikes, and I was a party at the meeting of the industry-labor conference that worked out that agreement.

Mr. TAVENNER. After the attack by Germany upon Russia, the Communist Party uttered hardly a word of criticism of President Roosevelt, who, until June 22, was branded an enemy of the working class and a destroyer of peace.

On October 25 the UE News printed a three-column story asking for complete repeal of the Neutrality Act which had been advocated sometime before by President Roosevelt and opposed by both the Communist Party and the UE News.

Mr. Emspak, can you explain why this shift in the sentiment of the UE occurred regarding the repeal of the Neutrality Act?

Mr. EMSPAK. Whatever the position of the union was at the time, I suppose.

Mr. TAVENNER. On October 25, 1941, the UE News devoted a whole page to a plan developed by Joseph Selly and the American Communications Association to keep spies out of the country. Can you explain why it is that when this committee is trying to keep spies out of the country the UE refers to its efforts as "Red baiting"?

Mr. EMSPAK. Because that is what it is. It is union-busting. It is antipeople. It is everything that is bad in this country. It is more than "Red baiting." It is the first step of fascism.

Mr. TAVENNER. Do you feel that we should permit spies to come in this country?

Mr. EMSPAK. No; I don't, and you know I don't.

Mr. TAVENNER. In the latter part of the year 1941 the Communist Party from time to time admitted that England and her allies had actually been fighting fascism before Russia was invaded. However, prior to Russia's entry into the war, England was engaged in fighting an "imperialist" war, according to the Communist Party line. I think I have pointed out that the UE also followed this line.

In September 1941, the UE convention went on record and said that England was worthy of securing aid from the United States, and one of the resolutions adopted at the convention stated that "the tremendous sacrifices being made by the British, Russian, Chinese, and other peoples in this resistance to Hitlerism are sacrifices made on our behalf as well as their own, and contribute directly to the defense of our country." This resolution asked that all possible aid be given to Great Britain, the Soviet Union, China, and other nations resisting Hitlerism.

Mr. Emspak, can you explain why it was that the United Electrical Workers' convention adopted such a resolution as this, whereas prior to the Russian invasion by Germany, the UE was opposed to aiding Britain and its allies?

Mr. EMSPAK. I suppose the people changed their minds.

Mr. MOULDER. I didn't hear your answer.

Mr. EMSPAK. I said I suppose the people changed their minds. We had a convention. There was a big "hash-over," I suppose, and they came to a certain decision, and that is that.

Mr. MOULDER. Any further questions, Mr. Tavenner?

Mr. TAVENNER. I think that is about all. I would like to release the witness and call him back. I want to ask him a few questions after questioning another witness.

Mr. MOULDER. I do want to make this statement in reply to the statements you have made about this committee, Mr. Emspak. It is the function of this committee to expose communism and un-American activities. An appearance before this committee does not deny you any constitutional rights or privileges, nor have you been accused of anything. Your action before this committee discloses a flagrant attitude toward this committee.

You made reference to an investigation by this committee of a CIO union. I was at that hearing, and it was disclosed that candidates for delegates to your national convention were, by inferences they would not deny—and one, Whisner, admitted he was a delegate to the Soviet Union and that other members of the union had been sent as delegates to Friends of the Soviet Union. Just what influence did the disclosure of those facts by this committee have on the election?

Mr. EMSPAK. That hearing was held when a priest by the name of Father Rice called a member of this committee and, at the request of the priest, who was interested on a low partisan level, this committee held the hearing. Whereas the hearing was intended to have an unfavorable reaction on the election to be held, one of the people here before this committee got the second highest vote cast.

Mr. MOULDER. It was the members of the union who voted for the delegates?

Mr. EMSPAK. Yes.

Mr. MOULDER. How could this committee affect the election?

Mr. EMSPAK. By the smear job this committee attempted to do.

Mr. MOULDER. Do you think it was a smear to expose that candidates were delegates to the Soviet Union?

Mr. EMSPAK. You have Congress interfering in a local union election.

Mr. MOULDER. It was the members of the union who voted and they had a right to exercise their own judgment.

Mr. EMSPAK. They did. One of the boys here got the second to highest vote. It shows the efforts of the committee were wasted.

Mr. MOULDER. You don't want the average union member to know anything about the Communist affiliations officers of the union may have, if they do have such affiliations?

Mr. EMSPAK. I don't care, and that is not the concern of the membership. The concern of the membership is who is doing a job for them.

Mr. MOULDER. Don't you believe that the rank and file of any union should have knowledge of communistic activities within the union, and should have an opportunity to be so informed, and that this committee is performing a service when it does so expose such communistic activities within a union?

Mr. EMSPAK. Of course this committee is not performing any service for organized labor.

Mr. MOULDER. Do you think it is wrong for this committee to expose the fact that Communists are trying to take over organized labor? Are you in favor of Communist control of organized labor?

Mr. EMSPAK. I am not, and I am not in favor of a religious group taking control.

Mr. MOULDER. Don't you think if the Communists gained control of organized labor, they would lose the privileges they have to bargain freely?

Mr. EMSPAK. I don't know. That is a hypothetical question.

Mr. TAVENNER. Mr. Emspak, you recently signed a non-Communist affidavit which you filed with the National Labor Relations Board?

Mr. EMSPAK. That is right.

Mr. TAVENNER. When was this affidavit signed?

Mr. EMSPAK. The convention had a session in September and the convention made a decision that the organization comply with the Taft-Hartley requirements in order to avail itself of whatever facilities were available, and on the basis of that decision the officers signed the non-Communist affidavits. The exact date, I don't recall. We had an acknowledgment from the Board, but the affidavit speaks for itself.

Mr. TAVENNER. Since that time you have been expelled from membership on the executive board, have you not?

Mr. EMSPAK. No.

Mr. TAVENNER. You have not?

Mr. EMSPAK. You mean of CIO?

Mr. TAVENNER. Yes.

Mr. EMSPAK. No; we withdrew.

Mr. TAVENNER. You withdrew?

Mr. EMSPAK. Yes; the day before. The day that the original subpena was dated, by the way, by the purest coincidence.

Mr. TAVENNER. I assure you that must have been a coincidence.

Mr. EMSPAK. Yeah.

Mr. TAVENNER. At this time are you a member of the Communist Party?

Mr. EMSPAK. I answered that when I said the affidavit speaks for itself.

Mr. TAVENNER. Is that all the answer you care to give?

Mr. EMSPAK. I should think that is plenty.

Mr. TAVENNER. The affidavit spoke as of the date you gave it some months back, but you are not willing to speak now as to what you are?

Mr. EMSPAK. I understand an affidavit to be an affidavit, a document that is binding when one undertakes to subscribe to it. I further understand what the motives of this committee are, to establish a beautiful frame to hang people who try to comply with the law. O. K. The affidavit is binding, and that is that.

Mr. TAVENNER. That is all you have to say?

Mr. EMSPAK. I think that answers the question fully and completely.

Mr. TAVENNER. Were you a member of the Communist Party at any time before you signed the affidavit?

Mr. EMSPAK. That I will answer the same way I did about an hour ago.

Mr. TAVENNER. Have you ever paid Communist Party dues?

Mr. EMSPAK. I answered that.

Mr. TAVENNER. Have you ever signed an application to join the Communist Party?

Mr. EMSPAK. I answered that.

Mr. TAVENNER. Have you ever registered as a member of the Communist Party?

Mr. EMSPAK. I answered that.

Mr. TAVENNER. Did you, as a member of the Communist Party, attend the trial of Earl Browder at Communist Party headquarters in New York City?

Mr. EMSPAK. I answered that.

Mr. MOULER. You mean you refuse to answer for the same reasons you gave at the beginning?

Mr. EMSPAK. That is correct. I answered the best way I know how.

Mr. TAVENNER. You know that Mr. Budenz testified you did attend the trial of Earl Browder?

Mr. EMSPAK. Mr. Budenz testified to a lot of things. I read about it.

Mr. TAVENNER. Is it true or not?

Mr. EMSPAK. I answered that.

Mr. TAVENNER. That is all you have to say?

Mr. EMSPAK. Yes.

Mr. TAVENNER. Do you recall the film produced by UE, Deadline for Action?

Mr. EMSPAK. I do recall it very well.

Mr. TAVENNER. What was the result of the showing of that film?

Mr. EMSPAK. Apparently a major corporation in this country, in conjunction with an agency of the Government, succeeded in framing a man named Marzani and sending him to jail because that film happened to touch a tender spot with regard to the large corporations, because it happened to be an effective film.

Mr. TAVENNER. I have attempted to trace here the line of the UE News in comparison with the Communist Party line. I want to give you an opportunity to disavow, if you so desire, any of the statements I referred to from UE News, of which you are editor.

Mr. EMSPAK. Anything that is printed is printed. I am not avowing or disavowing anything. My memory is not that good that I can recall everything you read. Whatever position the UE News took reflected the views of the UE, and that is that.

Mr. TAVENNER. I would like to ask that the witness be available tomorrow morning.

Mr. MOULDER. You are excused until tomorrow morning.

I wish to say I have no religious prejudices whatsoever. This committee was not influenced by any church to conduct any investigation into local union affairs. I am strongly in favor of organized labor, and most of the members of this committee are, and we are not doing anything to hamper organized labor. We feel it is the duty of this committee to protect labor unions against Communist infiltration, and that we will try to do.

You are excused until 10 o'clock tomorrow morning.

Mr. SCRIBNER. Isn't it possible to conclude today? We have been here since 10 o'clock this morning. The fact there were other witnesses before the committee is not the fault of this witness. He was subpenaed for 10:30 this morning, and I think we should conclude today instead of adjourning and possibly getting ideas overnight to go into the next day.

Mr. TAVENNER. I take exception to counsel's statement that we desire to adjourn so as to get ideas to go into tomorrow. It was my plan to finish examining this witness after I examined Mr. Matles. That was the plan and is still the plan.

Mr. MOULDER. Could we go ahead and finish today?

Mr. TAVENNER. Yes. It is now 5 o'clock, but we can go ahead.

Mr. MOULDER. Very well.

Mr. TAVENNER. Mr. Matles, please.

Mr. MOULDER. Will you hold up your right hand and be sworn. You solemnly swear the testimony you are about to give will be the truth, the whole truth, and nothing but the truth, so help you God?

Mr. MATLES. I do.

TESTIMONY OF JAMES J. MATLES, ACCOMPANIED BY HIS COUNSEL, DAVID SCRIBNER

Mr. TAVENNER. Will you state your full name?

Mr. MATLES. James J. Matles.

Mr. TAVENNER. Are you accompanied by counsel?

Mr. MATLES. I am.

Mr. TAVENNER. Is it the same counsel as accompanied the previous witness?

Mr. MATLES. Yes.

Mr. TAVENNER. You are employed by UE and hold a position with the UE?

Mr. MATLES. That is right.

Mr. TAVENNER. How long have you been associated with the UE?

Mr. MATLES. Since 1927.

Mr. TAVENNER. What is your present address?

Mr. MATLES. 193 Clinton Avenue, Brooklyn, N. Y.

Mr. TAVENNER. Will you state briefly to the committee your previous record of employment?

Mr. MATLES. I was working as a mechanic for a number of years prior to my position with the union.

Mr. TAVENNER. When and where were you born?

Mr. MATLES. Rumania, February 1909.

Mr. TAVENNER. What position do you hold in the UE?

Mr. MATLES. Director of organization.

Mr. TAVENNER. What other positions have you held since as a member of UE?

Mr. MATLES. No other position.

Mr. TAVENNER. Have you held any other position in a labor organization?

Mr. MATLES. I was grand lodge representative of the I. A. of M., International Association of Machinists.

Mr. Chairman, may I be excused from these pictures while I am testifying?

Mr. MOULDER. Yes; if the witness so desires. No further pictures will be taken.

Mr. TAVENNER. Are you acquainted with Esther Tice?

Mr. MATLES. Mr. Chairman, I have listened to Mr. Emspak's testimony, and I am sure you are trying to save time. I do not propose to discuss here my associations or my political affiliations, under the

guaranties given to me by the first and fifth amendments to the Constitution, and I am going to try to save as much time for you as I can.

Mr. TAVENNER. You are rather jumping at conclusions, I think.

Mr. MATLES. I get it from what you have said that you are trying to save time, so I am helping you along.

Mr. TAVENNER. I am not asking you about the political affiliations of Esther Tice.

Mr. MATLES. I don't want to discuss my associations.

Mr. TAVENNER. No matter what type of business associations they may be in the affairs of the union, you will not discuss them?

Mr. MATLES. That is right, because I studied the testimony before this committee, and I find you are trying to use witnesses as finger men.

Mr. TAVENNER. Where is Esther Tice employed?

Mr. MATLES. I have answered that question.

(Witness confers with his consel.)

Mr. MATLES. Mr. Chairman, may I have 1 minute on this question?

Mr. TAVENNER. You mean to consult with counsel?

Mr. MATLES. No. I have consulted with counsel and desire 1 minute to clarify my point of view

Mr. MOULDER. Very well.

Mr. MATLES. The purpose of this hearing was announced by a representative of this committee, and that was to investigate the activities of officers of the union who have complied with the Taft-Hartley law. As we have known this committee for 12 years, the only reason you would assign yourself such police functions would be to frame us up and smear our organization. I feel Mr. Murray and Mr. Carey had something to do with persuading you to hold these hearings.

Mr. MOULDER. I think you are wrong about that. I don't know either of them. Do you refuse to answer the question?

Mr. MATLES. I have given the basis for answering the question the way I did.

Mr. TAVENNER. Which, of course, is no answer at all.

Mr. MOULDER. You can give any explanation you wish, but don't make a speech.

Mr. MATLES. Do you really think I made a speech, Mr. Congressman?

Mr. MOULDER. Proceed.

Mr. TAVENNER. Mr. Matles, have you ever been a member of the International Workers Order?

Mr MATLES. I have answered that question.

Mr. TAVENNER. When?

Mr. MATLES. Just before.

Mr. TAVENNER. What is it? Were you or were you not?

Mr. MATLES. I will not discuss my affiliations, my associations, or my political beliefs, on the grounds I stated before.

Mr. TAVENNER. Are you acquainted with the fact that that organization is cited as Communist and subversive by the Attorney General of the United States?

Mr. MATLES. I am not interested in that.

Mr. TAVENNER. Are you acquainted with that fact or not? Regardless of whether you are interested, are you acquainted with the fact?

Mr. MATLES. No; I am not acquainted with it. I read something in the newspapers about organizations being put on a subversive list by the Attorney General. I didn't pay any attention to that.

Mr. TAVENNER. In 1933 you were an organizer for the Steel and Metal Workers Industrial Union, were you not?

Mr. MATLES. My answer is the same.

Mr. MOULDER. You refuse to answer for the reasons stated, that it violates your rights provided under the Constitution?

Mr. MATLES. That is right.

Mr. MOULDER. What are those provisions, do you know?

Mr. MATLES. I believe the first and fifth amendments.

Mr. MOULDER. In what respect do they justify your refusal to answer the question?

Mr. MATLES. I am so advised by counsel.

Mr. SCRIBNER. I will be happy to give the basis for that if you wish, Mr. Congressman.

Mr. TAVENNER. Was James Lustig also employed as an organizer for the Steel and Metal Workers Industrial Union at the same time you were?

Mr. MATLES. My answer is the same.

Mr. TAVENNER. Mr. Matles, I show you a copy of the Daily Worker dated November 6, 1933, and point out to you that on page 2 under the heading "Thirty-eight workers' organizations endorse Communist Party program" your name appears as Secretary of the Steel and Metal Workers Industrial Union, along with that of James Lustig, as organizer of the Steel and Metal Workers Industrial Union. This article states:

> Only the Communist Party as the party of the working class represents the interests of the entire working population, stands squarely on the principle that the provision of adequate food, clothing, and shelter and the defense of the rights and living standards of the workers are the primary issues in this campaign.

I show you that article and ask if you still subscribe to that statement?

Mr. MATLES. Mr. Chairman, I have on many occasions discussed this subject before other congressional committees. I do not care to discuss it before this committee.

Mr. MOULDER. You refuse to answer?

Mr. MATLES. For the reasons I have previously given. I will not discuss my views, my affiliations, or my associations.

Mr. TAVENNER. Mr. Matles, Louis F. Budenz, a former official of the Communist Party of the United States, testified before the House Labor Committee that you, in 1936, were an important member of the State and National Trade Union Commission of the Communist Party. Do you wish to deny or affirm the testimony of Mr. Budenz on that?

Mr. MATLES. I wish to answer in the same manner I answered the previous question.

Mr. TAVENNER. On July 25, 1947, Salvatore M. Vottis testified before the Committee on Un-American Activities that you were a member of the Communist Party and that he had attended Communist Party meetings with you. Do you wish to deny or affirm this statement made by Mr. Vottis?

Mr. MATLES. I would like to answer in the same manner. I wish to state I have discussed this question on previous occasions before other congressional committees.

Mr. TAVENNER. On August 11, 1949, Joe Zack, also known as Joseph Kornfeder, testified before this committee that you were a member of district No. 2 of the Communist Party in New York State in

1931 and 1932. Do you wish to deny or affirm that testimony of Mr. Zack?

Mr. MATLES. I would like to answer in the same manner. I have discussed that subject before congressional committees in the past.

Mr. MOULDER. You mean you have answered the question before other committees but you won't answer before this committee?

Mr. MATLES. I fully realize the type of committee I am present before, testifying before.

Mr. TAVENNER. Did you previously testify with regard to testimony of Joe Zack that you were a member of district No. 2 of the Communist Party in New York State in 1931 and 1932?

Mr. MATLES. I am saying that during the past 12 years this and other committees of Congress have been warming up this type of question all over again, and the answers I have given before other committees are the best I can give, and I do not care to discuss the question before this committee. I am trying to save some taxpayers' money.

Mr. TAVENNER. What I am asking is whether you answered this question before other congressional committees?

Mr. MATLES. This stuff has been warmed up for 12 years and is getting tiresome.

Mr. TAVENNER. With regard to Mr. Kornfeder's testimony?

Mr. MATLES. With regard to that question.

Mr. TAVENNER. Mr. Zack also testified that upon his initiative you were assigned to be secretary of the New York Committee of the Steel and Metal Workers Industrial Union. Is that correct or not?

Mr. MATLES. My answer is the same.

Mr. TAVENNER. Mr. Zack also testified that in 1931 or 1932 you were assigned to represent the district committee of the Communist Party, New York District, to a number of Communist Party fractions such as the Communist Party fraction in the International Typographical Union, Local No. 6; the Communist Party fraction in the food workers' union; and a number of other fractions in the Communist Party within other labor unions. Do you wish to deny or affirm that testimony?

Mr. MATLES. Show me the purpose of all these questions. Is it to show on the record a smear that Mr. Murray and Mr. Carey can use in the coming elections? Are you cooperating to that extent?

Mr. MOULDER. You have an opportunity to clear yourself, to refute or deny the allegation.

Mr. MATLES. I wouldn't attempt to clear myself before this committee. I consider that an insult.

Mr. MOULDER. If what he says is not true, why don't you deny it?

Mr. MATLES. I have discussed this question before other committees, and it is tiresome, and I do not care to discuss it before this committee. I heard you say you are a strong labor man. Not when you voted for the Wood bill, and to keep the Taft-Hartley law.

Mr. MOULDER. I voted for the repeal of the Taft-Hartley law.

Mr. MATLES. You voted for the Wood bill.

Mr. MOULDER. You look up the record.

Mr. MATLES. I have looked it up. Six out of the eight members of this committee have done so.

Mr. TAVENNER. You have not answered the question.

Mr. MATLES. I answer it in the same manner I answered the previous question.

Mr. TAVENNER. You may stand aside for the present. I may want to call you back for further questions.

I now call Mr. Emspak.

TESTIMONY OF JULIUS EMSPAK—Recalled

Mr. TAVENNER. Mr. Emspak, I asked you a number of questions about your duties and about the services rendered by you and other officers of the UE to the rank and file in the matter of handling grievances, and how there were occasions when you went to the local community and worked on those problems.

Now I would like to revert again to that subject for a few minutes and ask you several other questions.

In the event of grievances, a business agent, in endeavoring to settle a dispute between labor and management, has the right, has he not, under certain circumstances, to make an inspection on the job?

Mr. EMSPAK. Not necessarily.

Mr. TAVENNER. Not necessarily?

Mr. EMSPAK. No.

Mr. TAVENNER. But he has that right?

Mr. EMSPAK. No. It depends on the type of local collective bargaining agreement that is in existence. In some cases they do, and others they do not.

Mr. TAVENNER. In the instance of the contract with General Electric does he have that right?

Mr. EMSPAK. It does not permit inspection by the business agent.

Mr. TAVENNER. It does not?

Mr. EMSPAK. No.

Mr. TAVENNER. Are not officers of UE permitted to make inspections on the job?

Mr. EMSPAK. No. What happens on the rare occasions it is used, a joint committee of management and local union representatives may go look at a specific job.

Mr. TAVENNER. Let me read you paragraph 4 of the contract:

> In those cases where it is mutually agreed by management and local representatives that an inspection of the job would be helpful in settling the case, a joint committee of local and management representatives shall be allowed to make an inspection of the job. Local representatives may include the business agent or his assistant or officers of the local.

So both the business agent and officers of the union would have that right?

Mr. EMSPAK. Possibly, but it is not automatic. Every member of the local under that provision, has the right.

Mr. TAVENNER. Mr. Emspak, the union officers also have the right, do they not, if they are so minded, to precipitate a strike?

Mr. EMSPAK. No.

Mr. TAVENNER. They may do it ostensibly for trade-union purposes, and it may be done actually even for a foreign power?

Mr. EMSPAK. No. That is a completely misleading, and a calculatedly misleading, statement. In the first place, so far as this union is concerned, no officer has a right to call a strike at any time, nor any

group of officers. This organization happens to be one where a basic decision of that kind is reserved to the members and the members alone.

Mr. TAVENNER. But that would depend on the influence the leadership has on the rank and file?

Mr. EMSPAK. It does not depend on any individual, and it depends on what the issue is.

Mr. TAVENNER. Mr. Emspak, I will ask you this question: Have you, as an officer of UE, or have any of the other officers of UE, to your knowledge, been denied the right to participate in the negotiation of wage disputes, by security officers of the Army, Navy, or Air Corps?

Mr. EMSPAK. We never have been denied that right. At least, I never have. The question has never come up.

Mr. TAVENNER. Have you ever been denied, by such security officers of the Army, Navy, or Air Corps, all access to any plants?

Mr. EMSPAK. I haven't had occasion to ask, and haven't been in any.

Mr. TAVENNER. So far as you know, you neither have been cleared nor barred?

Mr. EMSPAK. So far as I know I am just an ordinary guy who has had no occasion to go in a plant. I haven't been in a plant, I guess, for 10 years.

Mr. MOULDER. Did you testify to your previous employment before going in the newspaper business?

Mr. EMSPAK. I am not a newspaperman. I am an officer of the union, and the constitution of the union requires that one of the paid officers be designated editor in order to have it hook up to the organization.

Mr. MOULDER. Prior to your official position, where were you employed?

Mr. EMSPAK. In the General Electric plant at Schenectady until the spring of 1936.

Mr. TAVENNER. Have any other officials of UE been barred by security officers, to your knowledge?

Mr. EMSPAK. You mean national officers?

Mr. TAVENNER. Yes.

Mr. EMSPAK. Not that I know of.

Mr. TAVENNER. That is all.

I want to recall Mr. Matles.

TESTIMONY OF JAMES J. MATLES—Recalled

Mr. TAVENNER. Mr. Matles, have you been denied the right, by security officers of the Army, Navy, or Air Force, to participate in wage negotiations between management and labor at any time?

Mr. MATLES. To participate in wage negotiations?

Mr. TAVENNER. Yes.

Mr. MATLES. How could they deny me that right?

Mr. TAVENNER. I am asking, have they?

Mr. MATLES. No.

Mr. TAVENNER. Have they denied, for security reasons, your right to visit plants?

Mr. MATLES. What do you mean, for security reasons?

Mr. TAVENNER. A security officer usually investigates individuals who have access to plants where secret or classified Government work is being done; isn't that right? I am asking you whether or not the security officers have denied you the right of access to plants?

Mr. MATLES. I don't work at any of these companies. I work for the union.

Mr. TAVENNER. You are a national officer?

Mr. MATLES. Yes.

Mr. TAVENNER. And as a national officer you have never been denied that right?

Mr. MATLES. I never visit the plants.

Mr. TAVENNER. But you are an organizer and go from place to place?

Mr. MATLES. We negotiate with General Electric and with Westinghouse, but we try to stay in the air-conditioned offices if they let us. It is more pleasant.

Mr. TAVENNER. You carry on negotiations?

Mr. MATLES. I have for 14 years. I was interested in the questions about strikes prior to Pearl Harbor and prior to 1941. I want to assure you that from January 1, 1941, for 6 months, the War Department report covering the first 6 months of 1941 showed this union as having the outstanding peaceful record of not a single strike in a single defense plant taking place; that is, from January 1, 1941, for 6 months thereafter. That is an outstanding record. That has been the record of this union prior to the war, during the war, and after the war. It has an outstanding record of peaceful relations, besides an outstanding record as a union.

Mr. TAVENNER. I am not asking about that.

Mr. MATLES. You ought to be interested in that.

Mr. TAVENNER. I am; but I want an answer to my question first.

Mr. MATLES. I did answer it; didn't I?

Mr. TAVENNER. Not fully. As an organizer, you have occasion to go to the various communities in which the work of the union is going on?

Mr. MATLES. Certainly.

Mr. TAVENNER. You are there constantly?

Mr. MATLES. I am there constantly at meetings, negotiating with the companies, and so on.

Mr. TAVENNER. I am asking you whether the security officers of the Army, Navy, or Air Corps have ever denied you clearance to go on properties where secret or classified Government work was being done?

Mr. MATLES. I am not going there. They had no occasion to, and if they had occasion to I would consider it a dirty trick if they did.

Mr. TAVENNER. So they have neither cleared nor denied you?

Mr. MATLES. The same as they have not cleared or denied you. You have never had occasion to go there. You are in the same position I am in.

Mr. TAVENNER. You were speaking about the very peaceful, fine record that your union made from January 1, 1941. I am reading now from page 106 of the report of this committee, Seventy-eighth Congress, Second Session, House Report No. 1311, on the CIO Political Action Committee:

> Members of the American Peace Mobilization joined in supporting two strikes of the U. E. R. M. W. A. and aided in picketing the Pennsylvania Manufacturing Co., and the Emerson Radio Co., of Brooklyn, N. Y. (A. P. M. Volunteer, May 3,

1941, p. 4). Virgil Mason, U. E. R. M. W. A. leader at the Dolder Die Casting Co., was a member of the national council of the American Peace Mobilization.

Mr. MATLES. What is the point to that?

Mr. TAVENNER. I understood you to say your union was not involved in any strike from January 1941 for 6 months thereafter.

Mr. MATLES. The War Depratment's statistics showed our union was not engaged in a single strike in a single defense plant from January 1, 1941, for 6 months.

Mr. TAVENNER. Do you deny what I read to you?

Mr. MATLES. I refer to a War Department report that relates to defense plants. We didn't have 1,500 plants working on defense work. That is the distinction I am trying to impress on you.

Mr. TAVENNER. Was the Emerson Radio Co. engaged in defense work?

Mr. MATLES. In 1941?

Mr. TAVENNER. Yes.

Mr. MATLES. I don't know. I assume they weren't, or the War Department would have said so.

Mr. TAVENNER. Was the Pennsylvania Manufacturing Co. engaged in defense work?

Mr. MATLES. I assume it wasn't. It is a very small shop making transformers. By the way, I don't know the dates of those strikes.

Mr. MOULDER. Is that all of this witness?

Mr. TAVENNER. Yes. We will have other testimony relating to this general subject tomorrow. I am not asking you to stay over, but I am advising you of that fact.

Mr. MOULDER. The subcommittee stands adjourned until 10 o'clock tomorrow morning.

(Thereupon an adjournment was taken until Tuesday, December 6, 1949.)

HEARINGS REGARDING COMMUNIST INFILTRATION OF LABOR UNIONS—PART II

TUESDAY, DECEMBER 6, 1949

UNITED STATES HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE OF THE COMMITTEE ON
UN-AMERICAN ACTIVITIES,
Washington, D. C.

The subcommittee of one met, pursuant to adjournment, at 11:05 a. m., in room 226, Old House Office Building, Hon. Morgan M. Moulder presiding.

Committee member present: Hon. Morgan M. Moulder.

Staff members present: Frank S. Tavenner, Jr., counsel; Courtney Owens, investigator; Benjamin Mandel, director of research; John W. Carrington, clerk; and A. S. Poore, editor.

Mr. MOULDER. The subcommittee is in session. Who is the first witness, Mr. Tavenner?

Mr. TAVENNER. Mr. Smith.

Mr. MOULDER. What is his full name?

Mr. TAVENNER. Mr. Oscar Smith.

Mr. MOULDER. Do you solemnly swear the testimony you are about to give will be the truth, the whole truth, and nothing but the truth, so help you God?

Mr. SMITH. I do.

TESTIMONY OF OSCAR SMITH, ACCOMPANIED BY BENNETT BOSKEY, DEPUTY GENERAL COUNSEL, ATOMIC ENERGY COMMISSION

Mr. TAVENNER. You are Mr. Oscar Smith?

Mr. SMITH. That is right.

Mr. TAVENNER. Are you accompanied here by the Deputy General Counsel for the Atomic Energy Commission, whose name is Mr. Bennett Boskey?

Mr. SMITH. Yes, sir.

Mr. TAVENNER. What is your official position, Mr. Smith?

Mr. SMITH. I am at present Deputy Director of Organization and Personnel. I think in some of the documents that appear in this matter my title appears as Director of Labor Relations. That was my position in the past, but my duties have recently been expanded.

Mr. TAVENNER. That is of the Atomic Energy Commission?

Mr. SMITH. That is correct.

Mr. TAVENNER. Mr. Smith, we have been engaged here in a hearing relating to the leadership in the UE union; that is, the national organization. Where there is work done at the instance of the Atomic Energy Commission in a plant in which the UE has a contract, is it

the practice of your Commission to investigate, or to bring under security regulations, the officers of the national union?

Mr. SMITH. I will have to answer that in this way: The UE has appeared as a bargaining agent in only one instance in a major atomic-energy installation.

Mr. TAVENNER. Speak a little louder, please.

Mr. SMITH. That was Schenectady. We do buy a good many supplies from various concerns all over the country. All kinds of unions, including possibly UE, may be in those suppliers' plants. They are not Government plants, however, and in those instances we have not interested ourselves in the labor relations of the suppliers.

At Schenectady we have interested ourselves and have taken certain steps in regard to bargaining with UE at that installation.

Mr. TAVENNER. What position did the Atomic Energy Commission take with regard to the bargaining agency in the instance you referred to?

Mr. SMITH. We took several steps. At the outset, as we first got into the problem, we issued a directive to the General Electric Co. to maintain the status quo and that they were not to recognize UE in a new installation that at that time had no employees, pending the time we could explore the question.

We then invited UE to clarify the question that seemed to us to exist. When they declined to do this, we felt we had no alternative than to direct General Electric to cease dealing with them at the existing plant at Schenectady.

Mr. TAVENNER. What was the name of that plant?

Mr. SMITH. In its entirety it is called the Knolls Atomic Power Laboratory.

I think I should describe our contractual and physical arrangement up there. The Manhattan Engineer District, prior to the time the Atomic Energy Commission took over, entered into a contract with General Electric Co. for certain atomic-energy work. The work involved the operation of a plant at Hanford, Wash., for the manufacture of plutonium. Included in the same contract was certain work to be performed at Schenectady. The work to be performed at Schenectady envisaged that certain new facilities would be built, and also authorized General Electric to begin work immediately at Schenectady in its own plant within restricted areas marked off within the plant.

The Manhattan District then acquired its own plant at Schenectady, the Peek Street laboratory. At the time the Atomic Energy Commission took over, the Peek Street laboratory had been acquired, but there were no operations in it. The small operation within the General Electric plant was then moved to the Peek Street laboratory.

So, at the time of our action, which covered several months in 1948, with final action on November 1, 1948, we had what was known as the Peek Street laboratory, which was a Government-owned building, fairly well isolated by itself in Schenectady; a small amount of work still going on in restricted areas in the old plant; and new facilities under construction, with some parts completed, ready to move people from Peek Street to Knolls.

Mr. TAVENNER. The employees it was proposed to use in that plant were members of what union?

Mr. SMITH. United Electrical Workers.

Mr. TAVENNER. Was the question raised by the Atomic Energy Commission as to the loyalty of members of the national organization of UE; that is, its officers?

Mr. SMITH. Well, I wouldn't say that we raised the question. The facts were that, long before that, we had established a firm policy, which had been made known in a great many ways. It had been made known in a report to the Joint Committee on Atomic Energy which we filed January 16, 1948. It was made known publicly in hearings conducted in March 1948, in which our report on labor problems was the initial exhibit. It was made known in various communications to the National Labor Relations Board. The policy was that we considered it well settled that we did have to look into the question of assuring ourselves that the people who represented employees on classified work were people loyal to the United States.

The question as to the UE came up in this way: This committee, the House Committee on Labor and Education, and a great many other organizations, had from time to time conducted certain investigations of the UE, and there was available a large amount of public information, matters of public record that concerned the associations and affiliations and loyalty of these men who headed this organization, both locally and nationally.

We felt that question had to be looked into and cleared up satisfactorily if they were to represent people at Schenectady and we were to discharge our responsibility under the Atomic Energy Act.

So, when the new plant was ready to go into operation, we directed General Electric to remain in statu quo, and said we wanted this question cleared up before there was any recognition of this union as the bargaining representative of any persons to be employed by it at the new plant.

Mr. TAVENNER. In other words, it was the policy of the Atomic Energy Commission to satisfy itself regarding the loyalty of the officers of the bargaining agency?

Mr. SMITH. That is correct. Maybe, to give you the full picture on that, I ought to give a little of the background of the situation that existed at that time.

Our industry is an industry born in secrecy. In the air of secrecy under which the industry developed, a great many problems arose. There were restrictions on meetings. Work itself was highly compartmentalized. One man was not supposed to know what the man next to him was doing.

The Manhattan Engineer District had an agreement with the Congress of Industrial Organizations, the American Federation of Labor, and the National Labor Relations Board that all questions of union recognition would be deferred in this industry until some of the more critical problems essential to the prosecution of the war were gone into.

In 1946, immediately before the Atomic Energy Commission took over, the Manhattan Engineer District decided that, on a test-tube basis, they would try permitting the organization of unions in Oak Ridge, and notice was given of that to the Congress of Industrial Organizations, the American Federation of Labor, and Mr. Herzog of the National Labor Relations Board.

The Atomic Energy Commission took over on this test-tube basis at Oak Ridge, with unions excluded at other atomic energy installations, but with a firm commitment to review the situation as far as other installations were concerned, and it was in this review that the problem at Schenectady arose.

The Commission first concluded, based on reasons probably removed from the question of UE or security or anything else, that there was a need for unions in this industry, and that we did need collective bargaining, and that if the industry was to become in the future a part of the fabric of this country, it would have to be worked out as in other industries. That was announced in letters to the Congress of Industrial Organizations, the American Federation of Labor, and atomic energy contractors.

The action at Schenectady was a dual action. On the one hand the Commission said in substance to General Electric Co.: "We are authorizing you to recognize unions. We have written to Mr. Herzog, Chairman of the National Labor Relations Board, releasing him from his agreement to postpone NLRB cases." Then we said to General Electric: "However, at Schenectady all this public information raises this question as to UE. Don't recognize them for the new installation at Schenectady until we can probe into it."

Mr. TAVENNER. So that it was and became the policy of the Atomic Energy Commission to look into the question of security as to officials of national unions having bargaining agency contracts?

Mr. SMITH. That is correct.

Mr. TAVENNER. Will you state why the Atomic Energy Commission considered it important to look into the question of security as to the officers of national bargaining agencies, such as, for example, the UE, as distinguished from those who are physically working in the plants?

Mr. SMITH. Yes. First, to answer that generally, there are a great many documents which I suppose might be looked upon as official publications of the Communist Party. One of the other congressional committees assembled a great many of them—the Foreign Affairs Committee's subcommittee under the chairmanship of Representative Bolton several years ago—which makes it clear it is an objective on the part of the Communist Party to infiltrate trade-unions; to place Communists in key positions in unions if it is possible for them to accomplish this; and in such positions, according to these official documents, to win the confidence of workers. Obviously the reason for winning the confidence of workers is so that they can use the trust that is bestowed in them, if it becomes necessary, in order to follow the dictates of the Communist Party and the party line.

Moving from that premise on, the next thing is the important part that is played all the way up the line by the various officers in positions of authority above the local. I suppose the thing that brings this home more in our own industry is the fact that we have many installations where the question of continuity of production is extremely important, not only from the standpoint of the need of production, but from technical requirements of the process.

President Truman, about a year and a half ago, appointed a committee to study this matter and to make recommendations to him. That committee consisted of three very prominent men in the labor-relations field: William H. Davis, of New York; Edwin E. Witte, of

the University of Wisconsin; and Aaron Horvitz, an arbitrator, of New York.

They wrote a report to the President which has since become what we might call the charter for labor relations in our industry. In their report they have this to say on the importance of national officers and also high-level representatives of management:

> Another labor-management technique of proven value in private industry is a well-planned procedure which brings the experience and the responsibility of the very highest levels of management and labor to bear upon the settlement of all critical disputes. Procedure to this end needs to be carefully planned, so as to leave with local representatives primary responsibility for good relations at each particular installation, and yet make available in crises whatever wider experience and heightened responsibility may exist at the higher levels of management and labor, as well as the relatively detached judgment of individuals who have not themselves been directly involved in the earlier stages of the dispute. All of these considerations are made especially important in the field of atomic energy by the overwhelming responsibility to maintain continuity of production. We therefore recommend——

And this is set out and is the recommendation they have made for the industry, and it has been largely accepted:

> That, fully recognizing and safeguarding the primary responsibility of local representatives for sound and stable relations at each Government-owned, privately operated atomic-energy installation, provision be made for bringing to bear upon the settlement of critical disputes all available experience and responsibility of individuals at the very highest levels of management and labor.

In short, I think it boils down to this. It is hard to find the words to express how important it is in our industry, and we believe that we have to have higher representatives of management and higher representatives of labor available to assist in resolving disputes that might result in the interruption of that continuity.

Mr. TAVENNER. Then I assume it is principally for that reason that the Atomic Energy Commission considers it vital to the national defense that the loyalty of persons occupying positions as officers of a bargaining agency be checked upon?

Mr. SMITH. That is correct. What I have touched on here is the affirmative situation. Looking at it from the other standpoint, if we actually had in these positions, as the men to whom we might have to come to resolve disputes that might result in the interruption of these terrifically important activities, representatives of a foreign power, you could have very serious adverse action instigated by them in the opposite direction.

Mr. TAVENNER. Do you recall whether or not, under the contract between UE and General Electric, the officers of UE would under any circumstances have the right of access to restricted working facilities?

Mr. SMITH. The contract covers all the GE plants. It sets up a grievance procedure applicable to all those plants. I think I should make it clear at this point that we did not feel, and there was not involved in our decision, any question of espionage or anything like that arising through any rights of inspection, because in fact we had not permitted inspection by outside parties at Schenectady.

As to the arrangement itself, I have here a copy of the contract between UE and General Electric, and the particular clause involving the investigation of grievances reads as follows:

> In those cases where it is mutually agreed by management and local representatives that an inspection of the job would be helpful in settling the case, a

Joint committee of local and management representatives shall be allowed to make an inspection of the job. Local representatives may include the business agent or his assistant or officers of the local.

At Schenectady the business agent is a national officer of some kind of the international, so the local and international officers up there are rather closely tied together.

Mr. TAVENNER. As the result of the policy of the Atomic Energy Commission, what action was taken at Schenectady?

Mr. SMITH. We told General Electric they were not to recognize UE at the new plant. We then invited the UE to come in and explore the question with us.

Mr. TAVENNER. What do you mean by "explore" the question?

Mr. SMITH. We said: "There is a lot of public information that raises a question in our mind. We invite you to come in, and we want certain data from you."

I think if I read a paragraph from our letter it would answer the question. We actually wrote them two letters. The first was not answered for a couple weeks, and we wrote another letter. The first letter said:

The assertions in your letter do not even begin to answer the serious question that has been raised concerning the absence in various of the UE officers of the requisite adherence and loyalty to the interests of the United States. If the officers of UE desire, the Commission will afford them every opportunity to participate in a fuller exploration of this issue. It should be understood, however, that the AEC would expect the UE officers to be prepared to give full and candid statements concerning present or past affiliations of any kind with the Communist Party or Communist-dominated organization. In addition, the same personnel data will be requested of the UE officers as has been furnished by employees and by various officers of other unions who represent employees in the atomic energy program.

That letter is dated October 6, 1948. After a couple weeks, that letter not having been answered, we wrote another on October 22, 1948.

Mr. TAVENNER. Let me interrupt you there a moment. It was your purpose merely to subject the officers of the union to the same type of a check on loyalty as were individual members who might be working in the plant. Is that a correct statement?

Mr. SMITH. Not necessarily identical. I think there is this difference: Individual members working in the plant have access to restricted data. As such, there is a standard set up that they must meet, and certain procedures which must be followed, including a special investigation by the FBI, before they are authorized to have such access. In the case of union representatives, it probably adds up this way: People very close to the local and handling the day-to-day affairs of the local may also, in order to do their job, need some access; and if that were the situation, there would be the requirement that the procedure be identical with that in the case of an employee having access.

There is no statutory requirement that we follow the procedure of FBI investigation and so forth if access to restricted data is not involved, and we would feel we had a right to adapt our procedures as warranted in the situation. Actually, we did not set up a procedure in detail here. We might have followed the identical procedure with specific employees, or we might have followed some other procedure. In fact, when they would not explore it at all, we did follow a different procedure. We just directed GE to cease bargaining

with them at Peek Street. Before we would actually deny a particular employee access to restricted data, we would probably complete the investigation and go through the full procedure.

Mr. TAVENNER. All right. I interrupted you.

Mr. SMITH. On October 22, 1948, we wrote a second letter. I will read a couple of paragraphs from it:

> In my letter of October 6, the Commission proffered to the officers of UE an opportunity to participate in a resolution of this matter. Such participation, as indicated in that letter, would necessitate the furnishing by the officers of UE of the same personal data as has been furnished by all employees engaged in atomic energy work and by various officers of other unions, including full and complete statements as to their associations and affiliations.

As a matter of information there, we have a particular form which each employee fills out as the basis for the initiation of any action to investigate the loyalty question. A great many union representatives have filled that form out for us, many of whom we did not process on an FBI background investigation basis because they were not men who would have access to restricted data.

We went on and said:

> The Commission wishes to emphasize that it intends to move promptly on this matter. In the event that the serious question that exists is not satisfactorily answered in the manner indicated above, the Atomic Energy Commission intends to direct the General Electric Company to withdraw and withhold recognition from the United Electrical, Radio, and Machine Workers of America as the bargaining representative of any employees engaged on work at AEC-owned or AEC-leased installations in the Schenectady area or engaged on atomic work which is defined as classified by the AEC and being performed by the General Electric Co.
>
> * * * * * * *
>
> In order that the employees who will be affected by this action may be fully advised of the facts and of the consideration given to this matter by the Commission, we are directing the General Electric Co. to place a copy of this letter in the hands of every employee engaged in classified atomic energy work at Schenectady.

Now, that letter was responded to by Mr. Fitzgerald under date of October 26, 1948, at some length. I say it was responded to. I don't mean to say by that that we considered the reply responsive. Quite the contrary. Mr. Fitzgerald expressed some views he had concerning the Atomic Energy Commission, but did not offer to explore the issue, nor did he offer to answer the questions we had asked as to affiliations of officers of this organization. Consequently, we directed the General Electric Co. to cease recognition of UE at the existing facility, Peek Street. Our directive was broad enough to include a few other minor operations at Schenectady where a few people were engaged on Commission work.

Mr. BOSKEY. I might add, the letters from which Mr. Smith has been reading are part of the public record and have been printed in the Fifth Semiannual Report of the United States Atomic Energy Commission.

Mr. SMITH. In our final letter to GE, as in our original letter to GE, we said this:

> Further, we take this opportunity again to make it clear that the Commission does not object to General Electric Co. extending recognition as bargaining agent for atomic-energy workers to any labor organization whose officers have met the requisite standards in respect to full and unqualified adherence and loyalty to interests of the United States.

And, as a matter of fact, while this proceeding was going on, the National Labor Relations Board did certify a plumbers' union at Knolls. Also, the metal-trades department of the American Federation of Labor was certified at Hanford and now has a contract with the General Electric Co. at Hanford.

Mr. MOULDER. Do you mean to say all the unions other than UE agreed to follow the rules of the Atomic Energy Commission?

Mr. SMITH. I can't say all of them. We really only have two unions active in our industry. One is the metal-trades department. That includes the International Association of Machinists, which is not affiliated with the A. F. of L., but which, in the case of our industry, has joined with the metal-trades department in our plants. The other is the Chemical Workers of CIO. Both the metal-trades department and the Chemical Workers have responded to all requests we have made for submission of personal data or anything else, and have fully met whatever standards we have felt were necessary in this connection. No other union has refused. They just haven't been around our installations.

Mr. TAVENNER. That is all I want to ask you, unless you think of something else that might have a bearing on our discussion.

Mr. SMITH. I don't think of anything else.

Mr. BOSKEY. As you know, the United Electrical, Radio, and Machine Workers filed suit in the United States District Court for the District of Columbia, seeking to enjoin the action of the Commission. The district court dismissed the suit. The case is now pending in the court of appeals, and as a result of several extensions of time to file the appellant's brief, granted at the request of the United Electrical, Radio, and Machine Workers, the case is still pending and probably will be for a few months more.

Mr. TAVENNER. What specific authority is there for your taking the position that you have with regard to the requirement that officials of a union like the UE should comply with security regulations?

Mr. SMITH. I think that is a legal question.

Mr. BOSKEY. It is elaborated somewhat in the brief the Government filed in the district court. The Commission operates pursuant to statute, pursuant to the McMahon Act, the Atomic Energy Act of 1946.

Apart from any general considerations which, in the absence of statute, might enable the Government to protect itself for security reasons where classified work is involved, the Commission also has certain provisions in the statute.

Section 1 of the Atomic Energy Act of 1946 contains a very important declaration of policy, which declares that the paramount objective at all times is to assure the common defense and security. That objective is very much in the Commission's mind in all its activities.

In addition, in defining in section 1 of the act, the major programs it was the desire of Congress the Commission should carry out, the act provides for—

> A program for Government control of the production, ownership, and use of fissionable material to assure the common defense and security and to insure the broadest possible exploitation of the fields.

The act also, as you know, has a provision relating to the control of information, section 10, which states:

> It shall be the policy of the Commission to control the dissemination of restricted data in such a manner as to assure the common defense and security.

In other words, running throughout the entire act is this thread of common defense and security. To that the Commission must always look.

In addition, in section 4 of the act, which relates to the operation of our main production facilities for the production of fissionable material and research done in connection therewith, there is a specific provision authorizing the Commission to carry out those functions by contract. The act states that in any such contract the Commission shall insert a provision which requires the contractor to comply with all security regulations which may be prescribed by the Commission.

In view of these very pertinent parts of the Atomic Energy Act, it was the Commission's view, and the view of the Department of Justice and of the District Court of the United States for the District of Columbia, that there was ample authority in law for the action which the Commission took in this case.

Mr. MOULDER. Thank you very much for coming here. There is not the slightest doubt in the minds of the members of this committee as to the very effective and efficient manner in which the Atomic Energy Commission has protected the national security in the functions of that Commission.

As I understand, you wish to emphasize here in particular the precautions and careful work that you are doing to protect the defense and national security in connection with the officers and representatives of organized labor?

Mr. TAVENNER. That is one point. You will recall the committee undertook at the time of the Franey hearing to make a study and investigation of security measures in plants where Government classified work is being done.[1]

Mr. MOULDER. You should be complimented.

Mr. TAVENNER. Colonel Barlow, please.

Mr. MOULDER. Do you solemnly swear the testimony you will give this subcommittee shall be the truth, the whole truth, and nothing but the truth, so help you God?

Colonel BARLOW. I do.

TESTIMONY OF COL. ERNEST A. BARLOW

Mr. TAVENNER. Will you state your name for the record, Colonel?

Colonel BARLOW. Ernest A. Barlow.

Mr. TAVENNER. What is your official rank and position?

Colonel BARLOW. Colonel, General Staff Corps. I am Chief of the Security and Training Corps, Intelligence Division, Headquarters, Department of the Army.

Mr. TAVENNER. In functioning in that capacity, does there come under your control the matter of security measures in plants where classified or secret Government work is being done?

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[1] Soviet Espionage Activities in Connection With Jet Propulsion and Aircraft, June 6, 1949.

Colonel BARLOW. Policy with regard to the degree of investigation and the standards for clearances comes within the purview of my office.

Mr. TAVENNER. Will you explain the procedure that is used in your security functioning?

Colonel BARLOW. For any classified contract entered into by any procurement service of the Department of the Army, prior to entering into the contract we have a procedure for the clearance of the facility.

The key personnel—that is, the directors, officers of the company, special consultants, draftsmen, individuals of that nature—make out a personnel-security questionnaire, and thereafter these members of the company are given what we call a national-agency check. In other words, the files of the Army, Navy, Air Force, and Federal Bureau of Investigation, and in many instances the files of the Un-American Activities Committee, are used to ascertain if there is any derogatory information contained in the file about any of the key personnel. If none is found, we write a letter to the procurement service and state there is no objection, from a security standpoint, to their entering into a contract with "A" for whatever purchases they wish to make; and after that the company itself enters into an agreement with the procurement service in which it assumes responsibility for classified information in that plant and agrees not to permit the unauthorized use of this classified information.

That is pertaining to all classified contracts of whatever degree of classification entered into by the Department of the Army.

Then the question of the clearance of individual employees comes up. For secret and top secret contracts, each individual must fill out a personnel-security questionnaire, and the Army commands then investigate the individual's loyalty, integrity, discretion, and the like.

The minimum amount of investigation consists of a check of the local Army files, local Navy files, local FBI files, local police records, and the like. However, as a usual procedure, the Army commander goes further and makes a personal background investigation. In 70 percent of the cases they make a personal-background investigation. That is for secret and top secret. If they find no derogatory information, a letter of consent is issued for that particular person to be employed.

Mr. MOULDER. What do you mean by a personal-background investigation?

Colonel BARLOW. National-agency check, local-agency check, and interviews with individuals back in the home community of the individual under consideration. If the Army commander, in his investigation, discovers any derogatory information, he is not permitted to issue a letter of consent, but he refers the complete case to a board set up in the office of the Army Provost Marshal General. That board reviews the case and makes a decision.

Mr. TAVENNER. You have spoken of investigations conducted by the Army. Is there a separate procedure where the Navy and Air Force are involved, or does the Army do that work for the armed services?

Colonel BARLOW. At the moment the Army conducts investigations for both the Navy and the Army for secret and top-secret contracts. The Air Force conduct their own. At present the Navy is attempting to secure sufficient funds to set up an investigative organization that

can handle all naval classified contract work; but this was a carry-over from a wartime situation where the Secretary of the Navy delegated to the Secretary of the Army clearance of personnel on Navy contracts.

Mr. TAVENNER. In the situation where you have a bargaining agency such as, for example, the UE, in its contractual relationship with, say, General Electric, does the Army subject the officers or any of the personnel of the national union to security regulations?

Colonel BARLOW. Not by reason of the individual's union position. We only investigate them if they are going to have access to classified information in that plant.

Mr. TAVENNER. That is, if an officer of UE expects to go into the working facilities of a plant, then you would conduct an investigation?

Colonel BARLOW. If he is going to see classified information in that plant.

Mr. TAVENNER. What about the situation where he merely goes into the plant for the purpose of inspecting the job, without seeing any maps or designs of specifications?

Colonel BARLOW. He is not investigated.

Mr. TAVENNER. He is not investigated?

Colonel BARLOW. He is not investigated. At each plant the procurement service that entered into a contract with that plant has a representative, one of whose jobs is to see that the facility abides by that security agreement, and it is up to him to insure that security in maintained. We require, insofar as visitors are concerned, that the visitors be accompanied at all times on a tour of the plant to see to it that they do not see classified information.

Mr. TAVENNER. I am not speaking of a visitor in a general sense, but rather as an officer of the national organization which may be engaged in the settlement of some grievance dispute, in which case he would have the right to inspect the job under certain circumstances. Have you ever conducted a security investigation of such an officer of the national union?

Colonel BARLOW. I can't authoritatively answer that question. Actually, in my own opinion—the Army representative at that plant engaged in that contract, plus the plant management—it would seem, between the Army plant inspector and the agreement signed by the plant, that, if a union official had to see classified material in connection with his union activity, he would be investigated. However, I have no personal knowledge on that score.

Mr. TAVENNER. Aside from the right of an official of the national union to enter a classified working facility, is it the practice of the security division of the Army to conduct investigations of officers of the national union who have certain administrative duties and control over and in regard to the personnel of the union, and who have certain duties in regard to the settlement of grievances?

Colonel BARLOW. It is not the practice of the Army. As a matter of fact, I don't think the Army has authority to investigate any civilian per se unless he is working for the Army.

Mr. TAVENNER. In other words, officials of a union such as UE would not be investigated under your practice and procedure?

Colonel BARLOW. No, sir; not unless he were an employee as well as a union official.

Mr. TAVENNER. Did I understand you to say you consider you have no authority to investigate civilians?

Colonel BARLOW. It is my opinion the Department of the Army has no right to investigate any civilians unless they are employees of the Department of the Army.

Mr. TAVENNER. Then you conclude that under the regulations governing your Department you do not have authority to investigate, say, officials of UE who are not employees?

Colonel BARLOW. That is correct.

Mr. TAVENNER. Do you know of instances in which the Army, the Navy, or the Air Force are engaged or have let contracts involving secret or classified defense work to plants over which the UE has a bargaining agency contract?

Colonel BARLOW. I don't believe I can authoritatively answer that, but I am certain the Department of the Army has classified contracts with the General Electric Co.

Mr. TAVENNER. Do you have available copies of the security regulations which you could leave with this committee?

Colonel BARLOW. I have Department of the Army Memorandum No. 380–5–10, dated 2 April 1948, with two changes, which sets forth the policy with respect to the clearance of employees. I do not have the regulations regarding the facility.

Mr. TAVENNER. Could I ask you to make available to us the regulations covering the facility as well as the employees?

Colonel BARLOW. The clearance of employees and facilities at the moment is under study by the Munitions Board of the Department of Defense, and they are writing completely new policy regulations for the whole thing. I am afraid anything I would give you right now would be certainly not the thing that will be in effect 2 weeks from now. I have a copy of the old security agreement, but it is being revised along with everything else.

Mr. TAVENNER. Will you give us a copy of the revised material when the revision is completed?

Colonel BARLOW. I will.

Mr. TAVENNER. And also a copy of the old regulations?

Colonel BARLOW. I will.

Mr. MOULDER. Thank you very much for your attendance. Any further witnesses?

Mr. TAVENNER. Mr. Chairman, this concludes the testimony at this hearing. You will probably recall that various members of the committee indicated, as I suggested a moment ago, at both the open and closed session at which the Franeys were heard on June 6, 1949, that further investigation should be made of security measures in force at plants working on secret or classified Government defense projects. Further investigation has been made from time to time.

It has been developed in this hearing that certain officers of national unions which are bargaining agents under contracts with plants where secret or classified defense work is being performed are not subjected to security regulations in all cases.

The testimony introduced at this hearing discloses the duties and powers of certain officials of UE in negotiating contracts, in the adjustment of grievances, in the administration of the affairs of the union, and in the right in certain instances to inspect jobs, though located in classified working facilities.

The Atomic Energy Commission has recognized the risk involved to national security in failure to subject such officials to the same

security requirements as those normally dealing with classified material.

Mr. MOULDER. I understand they do have such rules and regulations.

Mr. TAVENNER. They do have cases where those security standards have not been met, as was the case with UE.

The Security Section of the Army rather takes the view, if I understand the testimony correctly, that it has no authority under the law to subject the officials of such an organization to any type of security standards except in instances where an official in performing his duty is required to know or to see classified material.

Without some type of security standards applying to officers of the type and character of officers in a union which has a bargaining agency contract, such officers, if actually disloyal to the United States, apparently would have opportunity to seriously jeopardize the national defense.

It is suggested, therefore, that you consider reporting this matter to the committee as a whole for its opinion as to whether additional investigation is desired, and whether it desires to make recommendations for legislative enactment.

Mr. MOULDER. As is in effect with the Atomic Energy Commission?

Mr. TAVENNER. Or something similar.

Mr. MOULDER. Is that all?

Mr. TAVENNER. That is all.

Mr. MOULDER. The committee stands adjourned.

(Thereupon the subcommittee adjourned.)

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381 **Emspak Exhibit No. 2**

N. Y. Times, November 17, 1949

HOUSE GROUP CALLS TWO U. E. LEADERS

Head of Ousted Union Accuses Committee on Un-American Activities of 'Smear'

The House Committee on Un-American Activities disclosed last night in Washington that it was looking into the validity of non-Communist affidavits filed by officers of the left-wing United Electrical, Radio and Machine Workers. The union was expelled from the Congress of Industrial Organizations last week on the charge that it was Communist-dominated.

A spokesman for the Congressional investigating committee said it had issued subpoenas for the appearance of Julius Emspak, UE secretary-treasurer, and James J. Matles, the union's director of organization, before a subcommittee on Nov. 29. The spokesman indicated that the committee wanted to question the two officials about the affidavits they submitted to the National Labor Relations Board under the provisions of the Taft-Hartley Act.

Albert J. Fitzgerald, president of the expelled union, charged that the committee's renewal of interest in his union was designed to "smear the UE" and thus help the new electrical union set up by the CIO, the International Union of Electrical, Radio and Machine Workers.

Noting that the new group was scheduled to open its first convention in Philadelphia on Nov. 28, Mr. Fitzgerald asserted that the initiative for the committee's action had come from Philip Murray, CIO president, and James B. Carey, chairman of the administrative committee of the new union. Mr. Carey, who is national secretary-treasurer of the CIO, was a founder and first president of the older electrical union.

Committee aides said the subpoenas had been issued three weeks ago. This was just after the union had filed affidavits

with the NLRB and two weeks before the CIO revoked its charter. The union was unable to participate in NLRB elections until it submitted the non-Communist oaths. The new union has asked the NLRB to hold votes in General Electric, Westinghouse and other large electrical companies to determine which union the workers want to represent them.

In Elizabeth, N. J., a group of supporters of the ousted union who had seized control of the offices of Local 436 restored possession to pro-CIO forces after a vote among 674 employes of the General Instrument Corporation resulted in a thirty-to-one margin in favor of affiliation with the new CIO union.

Elsewhere in the New York-New Jersey metropolitan area conflicting reports on the extent of the secession movement were given by spokesmen for the rival groups.

Milton Weihrauch, district head of the new union, said locals with 25,000 members in New York and northern New Jersey had voted to join the CIO group. He estimated the original membership of the older union in this area at 60,000.

A spokesman for the old union said it had the support of locals with 50,000 members out of a total in the district of 68,000. He asserted that 3,000 employes in the Phillipsburg, N. J., plant of the Ingersoll-Rand Company had quit work at 2 P. M. to "protest interference" by the new union in contract negotiations. The workers accused the company of "stalling" on demands for higher wages and increased pensions because of pressure for recognition from the CIO group.

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382 **Emspak Exhibit No. 3**

N. Y. Times, November 23, 1949

JUSTICE ACTION DUE ON NON-RED OATHS

Grand Jury May Get Cases—U. S. Reported Not Waiting for High Court Ruling

By Louis Stark
Special to The New York Times

Washington, Nov. 22—The Department of Justice is preparing for speedy action on some cases referred to it by the National Labor Relations Board involving union officials who have signed non-Communist affidavits under the Taft-Hartley law.

It was reported today that an important step would be taken within thirty days. Justice Department officials declined to tell what the step would be. In other quarters it was felt that some cases might be presented to the grand jury.

Whatever the action, it was emphasized that the department was not waiting for rulings by the Supreme Court on two pending cases involving the legality of the provision of the law involving non-Communist affidavits.

The Department of Justice now has twenty-five to thirty cases of non-Communist affidavits under study.

The first cases referred to the department were those of three officials of the United Furniture Workers Union, CIO. They involved the depositions of Max Perlow, secretary-treasurer; Morris Pizer, president, and Ernest Marsh, director of organization.

Mr. Perlow announced last June 6 that he had left the Communist party. He was the first union official since the Taft-Hartley Act was passed two years ago to announce abandonment of Communist party membership to sign the non-Communist affidavit.

However, Mr. Perlow, at the same time, made it plain that he was not renouncing his belief in Communist doctrines or that he would refrain from advocating them "through peaceful, constitutional processes."

Mr. Perlow and Mr. Marsh are now involved in a dispute with Mr. Pizer because the latter broke with the left wing.

The furniture union is threatened with expulsion from the Congress of Industrial Organizations for allegedly following Communist-line policies rather than those of the CIO. Mr. Pizer, as union president and a member of the CIO executive board, faces trial before a CIO committee on the same charge and is threatened with loss of his CIO executive board position.

The latest of the cases to be handed to the Department of Justice by the NLRB are those of two officers of the United Electrical, Radio and Machine Workers of America.

This union, recently expelled from the CIO, filed non-Communist affidavits on behalf of several officials who have been listed as Communists by the House Committee on Un-American Activities. Among these officials are Julius Emspak, secretary-treasurer, and James J. Matles, director of organization.

Messrs. Matles and Emspak are to appear under subpoena next week at a hearing of the House Committee on Un-American Activities.

The Taft-Hartley Law does not require a union official who signs the required affidavits to make any statements of past membership in the Communist party. It merely requires such an official to swear that "he is not a member of the Communist party or affiliated with such party, and that he does not believe in, and is not a member of or supports any organization that believes in or teaches the overthrow of the United States Government by force or by any illegal or unconstitutional methods."

Donald Henderson, president of the Food and Tobacco Workers Union, CIO, and Maurice Travis, secretary-treasurer of the Mine, Mill and Smelter Union, CIO, who signed the affidavits, acknowledged in newspaper statements that they had been members of the Communist party but had resigned.

EMSPAK EXHIBIT #4

EMSPAK EXHIBIT #4

FILED
DEC 19 1950
HARRY M. HULL, CLERK

York Times.

by The New York Times Company.

WEDNESDAY, JULY 21, 1948. Times Square, New York 18, N. Y. Telephone LAckawanna 4-1000 THREE CENTS IN NEW YORK CITY

LATE CITY EDITION

Hot, humid with evening thunder showers today. Showers tomorrow.

Temperature Range Today-Max.,90; Min.,70
Temperatures Yesterday—Max.,83; Min.,69
Full U. S. Weather Bureau Report, Page 47

12 U.S. COMMUNISTS INDICTED IN ANTI-GOVERNMENT PLOT; FOSTER, DAVIS, OTHERS SEIZED

BAIL SET AT $5,000

Special Federal Grand Jury's Action Follows Year's Investigation

PARTY CONDEMNS TRUMAN

Calls Charges the 'American Version' of Reichstag Fire —Hearing Due Aug. 23

By MEYER BERGER

Six of twelve high-ranking Communists indicted yesterday by a special Federal grand jury that has investigated Communist activity for more than a year were arrested here last night on charges of conspiring to overthrow the United States Government.

Of the six others, some of whom live in cities elsewhere, one was arrested last night in Detroit. He is Carl Winter, chairman of the Communist party in Michigan. He was held in $10,000 bail for hearing in a fortnight.

The six arrested in New York were held in $5,000 bail each for hearing Aug. 23; but they were released at 10 P. M. in custody of their attorney, Abraham Unger, on the promise that they would reappear at 10 A. M. today before Federal Judge Vincent L. Leibell with the bond.

Held On 2 Indictments Each

The six taken in New York included William Z. Foster, party chairman and several times Communist candidate for President of the United States; Benjamin Davis, New York City Councilman; and several members of the Communist National Board. Each of the six was held on two indictments. Hearing date was set for Aug. 23.

The men named in the indictments in addition to Foster, Davis and Winter, were:

John Williamson, member of the Communist national board.

Eugene Dennis, general secretary of the Communist party.

Henry Winston, member of the national board.

Jack Stachel, member of the national board.

Robert Thompson, member of the national board and chairman of the New York State Communist party.

John Gates, editor of the Communist Daily Worker since 1947.

Irving Potash, manager of the Furriers' Joint Council of New York, CIO, member of the Communist national board.

Gilbert Green, Chicago Communist district chairman.

Gus Hall, chairman of the Communist party in Ohio.

Several Are Aliens

Several of these men are aliens, among them Williamson, Stachel and Potash.

United States Attorney John F. X. McGohey described the twelve men as "the Communist party's governing board." "They run the party," he said. "They make the policy and decide what it will do."

The indictments, which had been sealed when they were handed up before noon, in Judge Leibell's court, were opened at the arraignment here. A blanket indictment accused all twelve of the men named of conspiracy to violate the so-called Smith Act, a defense measure passed in June, 1940. Each of the men was indicted individually for specific violation of the act.

The general indictment set forth:

"That from on or about April 1, 1945, and continuously thereafter up to and including the date of the filing of this indictment the defendants unlawfully, wilfully and knowingly did conspire with each other, and with divers other persons to the Grand Jurors unknown, to organize as the Communist party of the United States a society, group and assembly of persons who teach and advocate the overthrow and destruction of the Government of the United States by force and violence, and knowingly and wilfully to advocate and teach the duty and necessity of overthrowing and destroying the Government of the United States by force and violence, which said

Continued on Page 3, Column 1

PARTY CONDEMN'S TRUMAN

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Continued From Page 1

acts are prohibited by the Smith Act."

The individual indictments charged:

"That from on or about July 26, 1945, and continuously thereafter up to and including the date of the filing of this indictment, the Communist party of the United States of America has been a society, group and assembly of persons who teach and advocate the overthrow and destruction of the Government of the United States by force and violence.

"That from on or about July 26, 1945, the defendant herein has been a member of said Communist party of the United States of America, the defendant well knowing during all said period that said Communist party of the United States of America was and is a society, group and assembly of persons who teach and advocate the overthrow and destruction of the United States by force and violence."

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CONVICTED COMMUNISTS HANDCUFFED AND ON THEIR WAY TO JAIL

Defendants line up before leaving the Federal Courthouse for House of Detention. They are (left to right) Henry Winston, Eugene Dennis, Jacob Stachel, Gilbert Green, Benjamin J. Davis Jr., John B. Williamson, Robert G. Thompson, Gus Hall, Irving Potash, Carl Winter and John Gates.

The New York Times (by Ernest Sisto)

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ICTED COMMUNISTS HANDCUFFED AND ON THEIR WAY TO JAIL

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The New York Times (by Ernest Sisto)

VERDICT IN 7 HOURS

Judge Approves It and Thanks Jurors at Tense Close of 9-Month Trial

TEN-YEAR TERMS FACED

Defendants and Advocates to Appeal—Latter Get One to Six Months as 'Example'

Text of Judge's statement in sentencing counsel, Page 3.

By RUSSELL PORTER

Eleven top leaders of the Communist party of the United States were found guilty yesterday of criminal conspiracy. They were convicted of secretly teaching and advocating, on secret orders from Moscow, overthrow of the United States Government and destruction of American democracy by force and violence.

The verdict was returned in the Federal Court House on Foley

384

EMSPAK EXHIBIT # 6

EMSPAK EXHIBIT # 6

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DEC 13
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FBI READY TO MOVE ON 20,000 NEW YORK REDS

10 CENTS

NEW YORK Journal-American

AN AMERICAN PAPER FOR THE AMERICAN PEOPLE

DAILY, 5 Cents. SATURDAY, 10 Cents. SUNDAY, 15 Cents.

No. 22,525—DAILY SATURDAY, OCTOBER 15, 1949

7TH SPORTS RACING ☆☆☆☆☆☆☆ SPORTS EXTRA

Subversives Scurrying to Underground

(Read article by Fulton Lewis Jr. on Today's Editorial Page)

By HOWARD RUSHMORE

With their national leaders convicted as criminal conspirators, New York City's 20,000 Communists today faced the possibility of a Justice Department crackdown on the far-flung Red Fascist organization with its network of cells in every borough.

This government blue-print may be put into effect in every major city once the Supreme Court passes on—or refuses to review—yesterday's Federal Court verdict which held the 11 Reds guilty of conspiring to teach and advocate overthrow of the United States government by force.

The FBI, the Immigration and Naturalization Service and other Federal agencies here and in other cities have in their files the names, photographs and even fingerprints of thousands of Communists, the N.Y. Journal-American learned.

N. Y. Cells Going Underground

Since this city is the national headquarters of the Communist Party and the center of Red propaganda publishing, first action against thousands of Reds on conspiracy charges would be launched here.

Aware of this threat, the Communist party here has been going underground, destroying membership cards, records and literature and replacing veteran Communist officials with comrades virtually unknown to the rank-and-file.

This retreat has been gradual over the past year but once the word "guilty" flashed from the Federal courthouse yesterday, the undercover operation became a mass exodus.

State and county officials of the Communist party were receiving—as they have done for 25 years—detailed instructions from Communist International agents, the omnipotent commissars of the Red Fascists here.

Top Penalty 10 Years, $10,000

Meanwhile the titular heads of Stalin's fifth column in this country remained in the Federal House of Detention on West st.

The convicted national board members will not be available to advise their followers for all were remanded by Federal Judge Medina after the verdict to jail until sentence is passed next Friday.

The jurist whose deportment and courage made him a national hero during the 168 days of the "million dollar trial" can sentence the 11 Reds to 10 years imprisonment and fines of $10,000 each.

Appeals to higher courts will be made by the defense counsel—all five of whom drew jail sentences for criminal contempt—before the quintet of lawyers surrender themselves to the Attorney-General Nov. 15.

They are:

Harry Sacher, Richard Gladstein, A. J. Isserman, Louis F.

Continued on Page 4, Column 7.

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Emspak Exhibit No. 7

386 UAC House Report No. 1311-CIO-PAC,
March 29, 1944

Union Calendar No. 433

78th Congress, 2d Session House Report No. 1311

INVESTIGATION OF UN-AMERICAN PROPAGANDA ACTIVITIES IN THE UNITED STATES

REPORT OF THE SPECIAL COMMITTEE ON UN-AMERICAN ACTIVITIES HOUSE OF REPRESENTATIVES SEVENTY-EIGHTH CONGRESS SECOND SESSION ON

H. Res. 282

To investigate (1) the extent, character, and objects of un-American propaganda activities in the United States, (2) the diffusion within the United States of subversive and un-American propaganda that is instigated from foreign countries or of a domestic origin and attacks the principle of the form of Government as guaranteed by our Constitution, and (3) all other questions in relation thereto that would aid Congress in any necessary remedial legislation.

Report on the C. I. O. Political Action Committee

March 29, 1944.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

UNITED STATES,
GOVERNMENT PRINTING OFFICE
WASHINGTON: 1944

387 **JULIUS EMSPAK.**

One of the top men in the C. I. O. Political Action Committee is Julius Emspak, secretary-treasurer of the United

Electrical, Radio and Machine Workers of America (C. I. O.), and in this capacity he was present at a political action conference held at the Hotel Warwick in Philadelphia on July 18, 1943. He is now also the editor of the U. E. News, official organ of the union.

Emspak's record as a Communist is established by his subservience to the line of the Communist Party on numerous issues, by his position of leadership in a Communist-controlled union, and by the Communist character of the U. E. News, official organ of the United Electrical, Radio and Machine Workers of America, under his editorship.

It has been estimated that three-fourths of the 570,000 workers in the U. E. R. M. W. A. are employed in defense industries, manufacturing such important war materials as aircraft and marine equipment, parts for tanks and guns, torpedoes, gun-sights, range finders, sound detectors, altimeters, gyroscopes, radio equipment, gauges, aerial cameras, motors, and cartridges. In 1943, the union claimed 970 collective agreements with such important defense manufacturing concerns as Westinghouse Electric with 75,000 employees, General Electric with 120,000 employees, General Motors with 30,000 employees, Radio Corporation of America with 12,000 employees, Fairchild Aerial Camera Co., Liquidometer Corporation, Colt Patent Fire Arms, Phelps Dodge Copper Products, Remington-Rand, Babcock and Wilcox, Electric Dynamic, National Radio Tube, Union Switch and Signal, and U. S. Cartridge Co.

Communist control of the United Electrical, Radio and Machine Workers of America has been demonstrated by its activity and by the testimony of competent authority. At its September 1941 convention in Camden, N. J., the organization repudiated a resolution permitting local unions to exclude Communists, Nazis, and Fascists from office. When this resolution was presented to the General Executive Board by James B. Carey, only two of its members supported him. Carey was charged with "red-baiting" and was defeated for the presidency because he refused to back down on the issue. The convention adopted, by a vote

of 789 to 377, a motion to bar only those who have been found guilty of "acts against the nation or against the union." Carey's adherents characterized this proposal as a meaningless "straddle," since defendants would thus be judged by a stacked red jury (New York Times, September 6, 1941, p. 16).

Prior to the break between Stalin and Hitler, the Communist leaders in the U. E. R. M. W. A. took the view that the British war effort should not be supported against Hitlerism. Anti-Communist forces in the convention sought to condemn the U. E. News as "Communist," charging that the policy of the paper shifted with the Communist Party line. The policy of the paper was vigorously

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Emspak Exhibit No. 8

388 UAC 100 Things-Com.—August 15, 1949

100 THINGS YOU SHOULD KNOW ABOUT COMMUNISM

Series: in the U. S. A.—and Religion—and Education—and Labor—and Government—and Spotlight on Spies.

Second Printing
August 15, 1949
Prepared and released by the
Committee on Un-American Activities,
U. S. House of Representatives
Washington, D. C.

389 altimeters, gyroscope, aerial cameras, motors, and other vital equipment, are at its mercy.

The union, which claims 600,000 members, is banned from representing our Nation's atomic workers.

80. *Surely the United Public Workers of America would not be a menace, would it?*

There are 15,000 members of this union in the Panama Canal Zone, alone. Many of the other 71,000 members are

stationed at navy yards, arsenals, experimental stations, the State Department, and throughout our Government agencies.

81. *Well, how do you know Communism has any power in any of these listed unions?*

Because of the men who hold positions of critical influence in them.

Here are some examples of Communist officers:

Name	Union	Office*
Harry Bridges	International Longshoremen's and Warehousemen's Union, CIO.	President.
Samuel Burt	International Fur and Leather Workers' Union, CIO.	Vice president; also manager, Joint Board of Fur Dressers and Dyers.
Philip M. Connelly	Los Angeles CIO Council	Secretary.
Julius Emspak	United Electrical, Radio and Machine Workers of America, CIO.	Secretary-treasurer.
Abram Flaxer	United Public Workers of America, CIO.	President.
Julius Fleiss	International Fur and Leather Workers' Union, CIO.	Business agent, Furriers Joint Council.
Ben Gold	International Fur and Leather Workers' Union, CIO.	President.
Donald Henderson	Food, Tobacco, Agricultural and Allied Workers' Union of America, CIO.	Do.
James Lustig	United Electrical, Radio and Machine Workers of America, CIO.	Representative, District 4.
James Matles	United Electrical, Radio and Machine Workers of America, CIO.	National organizational director.
Irving Potash	International Fur and Leather Workers' Union, CIO.	Vice president; also manager, Furriers Joint Council of New York.
William Sentner	United Electrical, Radio and Machine Workers of America, CIO.	President, District 8.
Maurice Travis	International Union of Mine, Mill and Smelter Workers, CIO.	Secretary-treasurer.

*Offices listed above were by the men in question as recently as the year 1948. If there have been any changes, they have not come to the committee's notice.

390 **Emspak Exhibit No. 9**

Investigation of Communist Infiltration of UERMWA

HEARINGS BEFORE A SPECIAL SUBCOMMITTEE OF THE
COMMITTEE ON EDUCATION AND LABOR
HOUSE OF REPRESENTATIVES
EIGHTIETH CONGRESS
SECOND SESSION

Pursuant to
H. Res. 111
(80th Congress)

Hearings held at Washington, D. C., September 2, 28, and 29. Schenectady, N. Y., September 30 and October 1, and at New York, N. Y., October 6, 1948.

Printed for the use of the Committee on Education and Labor

UNITED STATES
GOVERNMENT PRINTING OFFICE
81374 WASHINGTON : 1948

391 Then, too, we wanted his advice, and we got his advice on our end, as to how the Daily Worker could reach out more to reach UE members, and the like, and it was——

Mr. Kersten: Reciprocal?

Mr. Budenz: Reciprocal; yes.

Then in addition to these meetings at the Daily Worker office, of course, Wright met with the labor editors, who were Communists, who had a session every so often.

Mr. Kersten: Do you ever recall the UE News departing in its policy from the Daily Worker policy?

Mr. Budenz: It was considered to be the gem of Communist journalism.

Mr. Kersten: The UE News.

Mr. Budenz: Yes. It was pointed to on the Daily Worker

staff as an example of how a trade-union paper could follow the Communist line and yet deceive many people.

Of course, the word "deceive" was not used. I am making short cuts here. It was pointed to as an example of Communist initiative and intelligence in labor journalism.

Mr. Kersten: Are you familiar with Ruth Young, an official of the UE?

Mr. Budenz: I am, indeed.

Mr. Kersten: Do you recall whether or not she has participated in any Communist Party activities?

Mr. Budenz: Yes, sir; I do.

Mr. Kersten: Do you recall any chairmanships of State meetings?

Mr. Budenz: She was chairman May 23, 1938, of the State convention of the Communist Party. They are always executive. The press is not allowed in to note their activities, but she was the chairman of that session. The reason I recall that, if I may say, is because later on, and again in 1945, when Miss Young and I were having a little chat outside of the national committee sessions, where she had come as an observer, with Mr. Emspak by the way, she told me that the first time she met me was in this session of May 23, 1938, where she was chairman of the meeting. But I told her that was impossible, because I thought I was then in Chicago; we must have met earlier, which probably is the case. At any rate, her chairmanship of that session is down in black and white in the official proceedings of the Communist Party, printed there —Ruth Young as chairman.

Mr. Kersten: Do you recall the occasion of the trial or hearing concerning the status of Earl Browder in the year 1945?

Mr. Budenz: I do, very much. I stayed there during 3 days and 3 nights.

Mr. Kersten: Where was that?

Mr. Budenz: That was on the third floor of the headquarters of the Communist Party—that is to say, in the building on Twelfth or Thirteenth Street, and in what is

known as the Hank Forbes Auditorium. That is a room, now, extended out of the old Workers School. The Workers School went out of business when the party formed the Jefferson School of Social Science, and, in going out of business, a number of its officers had to be used in some way, and they converted three or four of the schoolrooms into the Hank Forbes Auditorium. And that is where we met, about 80 of us.

392 Mr. Kersten: How was that meeting composed; what was the composition of it?

Mr. Budenz: Sixty members of the national committee and 20 leading Communists who were trade-union leaders, who were there as observers and to give advice and counsel.

Mr. Kersten: The 20 were designated how?

Mr. Budenz: Twenty were designated by the political committee of the party, at that time functioning, I believe, through a secretariat, because Browder had been temporarily suspended as leader.

Mr. Kersten: You say this meeting lasted 3 days and 3 nights, commencing about what time?

Mr. Budenz: You mean in the daytime? Ten o'clock in the morning.

Mr. Kersten: Lasting until when?

Mr. Budenz: About 11 at night.

Mr. Kersten: Do you recall some of the individuals who were there at that time?

Mr. Budenz: Yes. Amter, and Charles Krumbein, and he is now deceased.

Mr. Kersten: Krumbein is deceased?

Mr. Budenz: Yes. He was chairman of the last meeting. And John Williamson, and William Z. Foster, and Earl Browder, whom everybody avoided; and then trade-unionists. I remember Miss Young was there, and Julius Emspak was there.

Mr. Kersten: Emspak was there?

Mr. Budenz: Yes; he sat right next to me all 3 days.

Mr. Kersten: Where were you in it?

Mr. Budenz: I was in the rear of the hall. It was a small hall. It seated 80 people comfortably, but there was no extra room there. I sat near the rear. As managing editor of the Daily Worker I had to be near the door in case there were some emergency calls from the news department. And Emspak sat right next to me, on my right, all of the time. We exchanged many pleasantries together.

Mr. Kersten: Do you recall any episodes concerning statements from the Chair in connection with Mr. Emspak?

Mr. Budenz: Well, I remember both some episodes in connection with the Chair and Emspak, and Emspak and the Chair. That is, toward the last session, as with all Communist sessions, everybody had to agree, so everybody agreed that Browder should be considered an outcast and a moral leper. That is what the whole session was about until the last session, and then the vote in regard to demoting Browder was 59 to 1, Browder being the 1.

The thing is that, after this session in which everybody continued to tell what a dog Browder had been, what an outcast he had been, how he betrayed everyone—after that there was a brief night session, because in order to comply with legalisms, the party has to go through the idea of having certain motions adopted, and all of these motions are unanimous; and so they had motions in regard to adopting the report of Comrade Foster and Comrade Dennis, which were all unanimous. And then they had an editing committee, which is always appointed to look over the political content of the resolutions, which are hastily drawn, of course This editing committee, I believe, was headed by Israel Amter—at least he was a prominent mem-

393 ber—and one of the members named by John Williamson, who was secretary of the meeting, was Comrade Juniper. There were only about six on this com-

mittee. And all of the other names were known except Comrade Juniper.

Then one person there, who was a trade-unionist, who had not been fully educated as a Communist, committed an unpardonable error. He got up and asked who was Comrade Juniper.

The retort—as in Chicago when someone asked, "Isn't Comrade Rossi really Harry Bridges?"—by Williamson, "This is an unpardonable reflection upon the integrity of Comrade Juniper, who is well known to the political committee as a tried and trusted comrade, who has always lived up to every injunction of the party, and it will be considered an anti-Communist act to consider any further reflections upon his integrity."

No one had reflected upon his integrity. They just asked who he was. You are not supposed to ask who people like that are, and the man was squelched. Comrade Juniper became a member of the editing committee.

Mr. Kersten: And where was he at the time?

Mr. Budenz: He was right next to me.

Mr. Kersten: That being whom?

Mr. Budenz: Julius Emspak.

Mr. Kersten: Do you recall any conversation with Emspak with regard to the way in which the chairmanship was handled on any of those days?

Mr. Budenz: Yes, sir.

Mr. Kersten: What do you recall about that?

Mr. Budenz: Well, the last meeting was rather chaotic, in one way. That is, these motions were being passed, but apparently the Communist leaders did not know how to carry out parliamentary law among themselves. I mean to say that the meeting was a little in disorder, compared to the previous discussion. Charles Krumbein—he is dead now; I don't wish to reflect on him—he was not conducting it in parliamentary order—did not recognize people that

The Witness: Very well.

Mr. Gordon: I think I can straighten it out, your Honor.

Q. Did Emspak and Young have a conversation? A. Yes, sir. They had it right next to where I was. Mr. Emspak sat next to me.

Q. All right. Now don't tell us the conversation. Emspak sat right next to you and he and Young had a conversation? A. That is correct.

Q. And after they had that conversation did either of (T-1711) them go up and talk to any of the defendants on trial or to William Z. Foster? A. They talked to Mr. Foster and to Mr. Williamson and to several others up in front, whom I don't recall at the moment.

Q. And what was it that they said? A. They said to Mr. Foster that the time is not ripe for action of that character, that that would destroy them immediately in the trade unions.

Q. And what did Foster do? A. About half an hour later he arose and withdrew that suggestion.

Q. At the time that Foster made this call for politicalizing strikes—

Mr. Sacher: I object to that question on the ground that it assumes a state of facts not in evidence.

The Court: Well, I have down here that the witness testified that Foster urged the strikes and urged them to politicalize these strikes.

Isn't that what you just said, Mr. Budenz?

———

398 **Emspak Exhibit No. 11**

[Committee Print]

Report of the Subcommittee on Legislation of the Committee on Un-American Activities on Proposed Legislation to Control Subversive Communist Activities in the United States

INVESTIGATION OF UN-AMERICAN ACTIVITIES IN THE UNITED STATES

COMMITTEE ON UN-AMERICAN ACTIVITIES

HOUSE OF REPRESENTATIVES

EIGHTIETH CONRGESS

SECOND SESSION

Public Law 601
(Section 121, Subsection Q (2))
April 10, 1948

UNITED STATES
GOVERNMENT PRINTING OFFICE
74282 WASHINGTON: 1948

399 munist Party has, in, fact, enjoyed a privileged status, insofar as prosecution under these laws is concerned.

During the war, while the Soviet Union was an ally, some justification for this failure might have existed, but now, when the Soviet Union and its Communist satellites are waging a cold war against the United States and the other free nations of the world, such failure to proceed under existing laws against Communists in the United States is utterly inexcusable.

The effective prosecution of Communists under existing laws has fallen generally into two categories. First there are cases in which Communists have been cited for contempt by the Committee on Un-American Activities. Although a number of contempt citations have been voted over the past 10 years, a commentary upon the effectiveness

of the Justice Department's prosecution of such cases is that just 1 month ago Leon Josephson was the first Communist who began to serve a jail term as a result of sentence and conviction on a contempt charge. The record of convictions in contempt proceedings has been excellent in recent months.

The Justice Department has also begun to proceed recently against alien Communists who perjured themselves in many cases as to their allegiance to the Communist cause when they entered the United States. It is significant that in some of these cases violations occurred over 15 years ago, yet only now has the Justice Department seen fit to prosecute.

Had the law-enforcement authorities vigorously enforced existing laws against Communists in the United States, the growth of the movement would undoubtedly have been stultified, so that it would not constitute the serious threat to our national security that it does at the present time. This apathy to, and coddling of, the Communists in the United States by the Department of Justice is in great measure responsible for the magnitude of the problem with which we are faced today.

The committee therefore recommends that the Justice Department immediately institute vigorous prosecution against Communists in every case where they have been guilty of violating existing laws. The Congress cannot be expected to pass legislation directed at controlling subversive influences if such laws are to become dead letters due to the failure of the Justice Department to prosecute. The committee wishes to point out that the Federal Bureau of Investigation has done an excellent job in investigating the activities of Communists in the United States, but investigation without prosecution is not an answer to the problem.

got up to make motions, and the like. He passed motions without giving them to the floor. So Emspak said to me, "If we had a chairman like that in one of our newly organized locals, we would throw him out. They don't know how to run things around here in a parliamentary fashion."

"Maybe that is because they never had any practice." I at least made that much of a crack to him, and he did not resent it. He did not like the lack of parliamentary law in the final session. However, he was on the editorial committee, and in an accepted position.

Mr. Kersten: What was the purpose of this 3-day meeting, therefore, in June of 1945 at Communist Party headquarters?

Mr. Budenz: The purpose of it was to express the complete, unadulterated support by the Communist Party of the statement of Jack Duclos that Earl Browder was a revisionist, a traitor to Soviet Russia and Communist movement, and to demote Browder from leadership in the Communist Party.

Mr. Kersten: In other words, the Communist line had been handed down to this group; is that right?

Mr. Budenz: That is correct.

Mr. Kersten: Do you recall who the carrier of that line was or the instrument of that line? How did they know about that?

394 **Emspak Exhibit No. 10**

UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

United States of America,

Appellee,

v.

Eugene Dennis, John B. Williamson, Jacob Stachel, Robert G. Thompson, Benjamin J. Davis, Jr., Henry Winston, John Gates, Irving Potash, Gilbert Green, Carl Winter and Gus Hall,

Defendants-Appellants.

JOINT APPENDIX

On Appeal from Judgments on Conviction of the United States District Court for the Southern District of New York

[TRIAL TESTIMONY]

VOLUME V—PAGES 3359 TO 4158
(TRIAL TRANSCRIPT, PP. 1370 TO 2637)

395 *Louis Francis Budenz—for Government—Direct*

Q. Does tailism meaning hanging on to somebody's coat tails?

Mr. Sacher: I object to this question on the ground that it calls for the witness's conclusion and opinion.

The Court: Overruled.

(T-1707) Weren't you the editor of this Daily Worker while a lot of this material came out with this "tailism" in every once in a while?

The Witness: Yes, sir, I was editor of the Daily Worker.

The Court: What does that mean?

The Witness: Tailism is a common Communist expression meaning to hold on to somebody else's coat tails, that is, to follow completely the leadership of that other person or force or group. It is a common expression in Communist phraseology.

Q. Do you remember any of the other reports that were made at the meeting? A. Yes, sir. John Williamson stated also the urgency of reading the Marxist-Leninist classics; that the state of revolution of Lenin had been practically put on the shelf; that there should be revived Stalin's works, above all the History of the Communist Party of the Soviet Union, Foundations of Leninism, Lenin's works, those works which stated the revolutionary Marxist-Leninist line and viewpoint. He also included, as I recall, Dimitroff's speeches in his recommendations.

Then Elizabeth Gurley Flynn spoke and stated—or rather, before her, Robert Minor spoke and stated that while he supposedly was very close to Browder, that actually he was watching Browder all the time and was opposing (T-1708) Browder and fighting Browder; that Browder had gone so far as to meet with six Senators in Washington and offered to give up the Communist Political Association, and only leave the Daily Worker exist.

And then Jack Stachel interrupted, as I recall, and said, "Leave the six Senators out. Don't name them."

Browder—

Q. Did he name them? A. No, he did not. Minor went on to affirm his acquiescence in the resolution and
396 to state that his previous writings, which had been very enthusiastically noted in favor of Browder, had been because that was necessary and that he agreed with the resolution as it was now and was against revisionism.

Elizabeth Gurley Flynn arose to criticize Minor, stating that he had held to the mental apron strings of Earl Browder, but she said that was not uncommon, that everybody had been intellectually terrorized in the political committee and the national committee; that she hadn't had one independent thought as a member of the political committee, though she was there for a long time; that she was only there, probably, because she was a woman; that she hadn't been allowed any independent thoughts; that when she did express them she had been bowled over with the

charge from some of the leading comrades that she didn't know Marx's theory. She hoped now that an opportunity (T-1709) would be accorded to have some democratic expression in the party, at least in the national and political committees because she hadn't been afforded that.

Others spoke along the same line, everybody agreeing that Browder revisionism was a disgrace, that it was necessary to return to the Marxist-Leninist revolutionary line, and to follow Comrade Foster's words that there should be a return to the Marxist-Leninist position and practices, to the practices of the party before Browderism crept into it—revisionism crept into it.

During one course of the third day of the session Foster himself arose to move that carrying out this new viewpoint, there should be immediately wired to several large strikes then existing word that they should fight constantly, to continue striking; that in addition to that, wherever labor disputes existed, wires should be sent urging them to strike and that the comrades everywhere should be urged to politicalize these strikes.

This caused a hurried conference between Ruth Young of the United Electrical Radio and Machine Workers Union and Julius Emspak of that union—he was sitting right next to me—in which they contended that this (T-1710) was not the time—

(T-1710) Mr. Sacher: I object to this on the ground that it is not binding on any of the defendants.
397 The Court: Overruled.
They were right there, weren't they?
The Witness: They were right in this small room.

Q. Go ahead. A. Between themselves they agreed—

Mr. Sacher: I object to that, your Honor.

A. Ruth Young—

The Court: Tell the jury what was said. You see when you say "they agreed" that is a sort of a characterization, and as far as you can, tell the substance of what they said.

RECOMMENDATIONS FOR NEW LEGISLATION

The Committee on Un-American Activities held public hearings last year on several bills which had been introduced to curb or outlaw the Communist Party. Commencing on February 5, this year, additional hearings were held by the Subcommittee on Legislation. Perhaps the most outstanding panel of legal talent ever to appear before a congressional committee testified concerning the bills before the subcommittee. The witnesses were in virtual agreement as to the necessity for new legislation. There was, of course, some disagreement as to

400 **Emspak Exhibit No. 12**

[Committee Print]

Report of the Committee on Un-American Activities to the United States House of Representatives, Eightieth Congress

INVESTIGATION OF UN-AMERICAN ACTIVITIES IN THE UNITED STATES

COMMITTEE ON UN-AMERICAN ACTIVITIES

HOUSE OF REPRESENTATIVES

EIGHTIETH CONGRESS

SECOND SESSION

Public Law 601
(Section 121, Subsection Q (2))
December 31, 1948

UNITED STATES
GOVERNMENT PRINTING OFFICE
83400 WASHINGTON : 1949

401 its finances, publications, educational activities, its work among minority groups and organizations.

The vast reference collection of the committee is in constant use by committee members and staff employees. Information is also made available to individual Members of

Congress, other congressional committees, and various agencies in the executive branch of the Federal Government. From June 20, 1946, to December 22, 1948, reports on 25,591 individuals and 1,786 organizations were compiled by staff members at the request of Members of Congress. These written reports cover all information found in files, records, and publications of the committee concerning the individual or organization.

The files of the committee have been open to accredited agents of the executive departments and have been widely used in security checks. In Presidential Executive Order 9835, dated March 21, 1947, which prescribes procedures for administration of the loyalty program for Federal employees, the files of the Committee on Un-American Activities are listed as one of the pertinent sources of information to be checked in determining the loyalty of employees and applicants for employment. They have been widely used for this purpose.

Indexes to public hearings and committee publications contain 48,221 references to individuals and 8,593 references to organizations. These indexes and the committee's card files are consulted daily by authorized personnel from numerous Government agencies in connection with loyalty or security investigations. During the period January 22, 1947, to December 21, 1948, accredited representatives of Government agencies made 5,975 visits to the committee file room to secure information. The length of such visits varied from 20 or 30 minutes to an entire day, during which time files were checked for available information concerning 3 to 200 or more individuals.

Visitors during this period were representatives of the following agencies: Federal Bureau of Investigation, Civil Service Commission, State Department, Treasury Department, United States Coast Guard, United States Secret Service, War Department, United States Air Force, Central Intelligence Agency, Navy Department, Labor Department, Federal Communications Commission, Securities and

Exchange Commission, Commerce Department, Agriculture Department, Economic Cooperation Administration, National Labor Relations Board, Federal Power Commission, Civil Aeronautics Board, War Assets Administration, and Metropolitan Police Department.

Material relating to individuals and organizations has been so carefully indexed that Government agents may make their own checks of committee publications and card files. Numerous questions arise as to the source of information found, however, and staff members are constantly available to furnish reference material and answer inquiries. On an average, each person who consults the files makes two requests for assistance.

Government investigators have made constant use of the consolidated card records, a collection of 300,000 card references to activities and affiliations of individuals. Eight cabinets are devoted to these references which are an index to source material in committee files.

In addition to the consolidated card records, which contain references to thousands of individuals, files are maintained on the activities of some 3,040 persons. Five cabinets are devoted to information concerning these individuals, many of whom are top leaders in subversive groups or prominent fellow travelers of the Communist Party. These collections are a valuable guide to the activities of various subversive groups as well as individuals.

402

The committee has compiled lists of signers of Communist Party election petitions for various years in 20 States, showing 363,119 signatures. These lists have been obtained from original petitions or photostatic copies of original petitions. The committee has published printed lists of signers of election petitions of the Communist Party for 1940 in the following States: Arizona, California, Connecticut, Illinois, Indiana, Kansas, Kentucky, Maryland, Michigan, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Utah, Vermont, West Virginia, and Wisconsin.

The committee has also indexed the following Communist Party election petitions: California, 1932, 1934, 1936, and 1938; 1942 petitions in Colorado and New York; 1946 petitions in Colorado, Connecticut, Michigan, and Pennsylvania; New York City, 1936, 1939, 1940, and 1945; Philadelphia, 1941 and 1946.

Of the 363,119 signatures, some 335,660 have been indexed and printed by the committee. The remaining signatures have been indexed and filed in the consolidated card record file. This large completely indexed collection has been a helpful guide in the study of Communist activity in these States and serves as a valuable and readily accessible reference collection for investigators from Government agencies.

In 1948, Government agencies made 80 requests for photostatic copies of signatures to Communist Party election petitions, and other exhibit material in committee files, with the number of pages of photostats in such requests ranging from 1 to 36. During the year, 50 requests were also made by various agencies for the use of material in file on a loan basis for photostating.

Since subversive forces try to infiltrate other organizations while working through their own, the committee has acquired a vast store of information concerning thousands of organizations in the United States. Its scope can be illustrated by the fact that files contain information concerning 380 organizations with names beginning with the letter "A."

Organization material in file is composed chiefly of material issued by the organizations themselves. Letterheads, statements of purpose and policy, reports on proceedings, press releases and literature, announcements of activities, news clippings—material from which the nature of the organization may be determined.

During the past 10 years, the committee has acquired 5,000 pamphlets. Most of these have been written by leaders prominent in subversive movements or issued by subversive organizations. This huge collection contains numerous Fas-

cist and Nazi pamphlets and hundreds of publications of the Communist Party. The collection ranges from subtle to open propaganda, through story, song, and verse, and reflects the constant effort of subversive groups to incite hatred, capitalize on prejudice, enmesh the unsuspecting, and divide the American people on national and international issues.

Some 8,553 issues of 644 periodicals serve as valuable sources of information. These periodicals reveal the motives and policies of hundreds of subversive groups and the activities of their leaders. The

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403 **Emspak Exhibit No. 13**

REFERENCE EXHIBIT SUBMITTED TO HOUSE COMMITTEE ON EDUCATION AND LABOR BY J. B. MATTHEWS, HEARINGS, SEPTEMBER 29, 1948.

OFFICIALS OF THE UERMWA WITH COMMUNIST AND COMMUNIST FRONT AFFILIATIONS

Abbreviations used in transcribing from original:

C.P.	Communist Party
D.W.	Daily Worker
S.W.	Sunday Worker
T.W.	The Worker
CRC	Civil Rights Congress
NFCL	Natl. Federation for Constitutional Liberties
APM	American Peace Mobilization
FO	UE Field Organizer
IR	UE International Representative

Number of names: 224

NOTE: Matthews' testimony referred to this exhibit as containing 250 names. Indications are that he inadvertently left off the pages containing the remaining 26 names —the original document appeared to have been stapled only

once and gave no sign that papers had been removed after stapling.

Copied October 9, 1948.

404 **Officials of the UERMWA with Communists and Communist Front Affiliations**

Albert, Owen (Local 757)
Signed a CP manifesto demanding a "second front"—DW Aug. 11, 1942

Alfone, Joseph (UE FO)
Signed a CRC manisfesto defending CP—TW May 25, 1947

Anderson, Ernest (Local 1225)
Sent telegram to Attorney General Biddle denouncing Bridges deportation order—DW May 29, 1942

Anderson, Robert (Local 441)
Sent May Day greetings to DW—TW, April 28, 1946

Appelle, Walter (Local 203)
Signed a CP manifesto demanding a "second front"—DW July 29, 1942

Arsenault, Oliver (Local 203)
Supported DW fund drive—DW June 12, 1943; Identified as CP member by Joseph Julianelle before Committee on Un-American Activities, July 24, 1947

Ashur, Emil (Local 423)
Signed a CRC manifesto defending CP—TW May 25, 1947

Ayola, Bruno B. (Local 1146)
Signed a CRC statement denouncing indictment of 12 CP leaders—DW September 23, 1948

Bachenko, Tom (Local 623)
Signed a CP manifesto demanding a "second front"—DW July 26, 1942

Bailey, Howard (Local 137)
Served in Communist-controlled Abraham Lincoln Brigade

Baker, Leonard (Local 1154)
Sent May Day greetings to Chicago Star—Chicago Star April 26, 1947; Signed a CRC manifesto defending CP—TW May 25, 1947

Bandarra, John (Local 277)
Signed a CRC manifesto defending CP—TW May 25, 1947

Barry, Walter (UE IR)
Identified as CP member by James Conroy before Committee on Un-American Activities July 25, 1947; Signed CRC manifesto defending CP—TW May 25, 1947; Sponsored End Jim Crow in Baseball Committee—letterhead Aug. 1945

Baumann, Grace (Local 622)
Signed a CP manifesto demanding a "second front"—DW July 26, 1942

Bednarski, Siggie (Local 421)
Signed a petition of the Citizens Committee to Free Earl Browder—DW March 16, 1942

405 Berlin, William (Local 453)
Seen at Communist Party headquarters in New York City—Bulletin of UE Members for Democratic Action

Berman, Irene (Local 1150)
Member of subscription committee for Chicago Star—Chicago Star, March 20, 1948

Bersing, Carl (UE District 1)
Denounced "war powers bill"—DW Jan. 15, 1941; Speaker for Committee for Peoples' Rights—DW May 29, 1941

Besch, Peter (UE)
Signed a CRC manifesto defending CP—TW May 25, 1947

Bingaman, Clarence (Local 810)
Signed a CRC manifesto defending CP—TW May 25, 1947

Bittman, John (UE FO)
Signed a CRC manifesto defending CP—TW May 25, 1947

Bjorklund, Allan (UE FO)
Sent greetings to DW on 20th anniversary—TW January 9, 1944

Bliss, Willard (UE FO)
National trade union director of American League for Peace and Democracy—DW July 29, 1939

Bloom, Frank W. (Local 155)
Signed petition of Citizens Committee to Free Earl Browder—DW March 4, 1942

Blusewicz, Frank (Local 441)
Sent May Day greetings to DW—TW April 28, 1946

Boettger, Fred W. (Local 155)
Signed CRC manifesto—TW May 25, 1947

Bowie, Chet (Local 447)
Wrote letter to DW telling why he had joined CP—DW March 28, 1943

Bradley, Harry J. (Local 709)
Signed a CRC manifesto defending CP—TW May 25, 1947

Brady, T. J. (Local 623)
Signed a CP manifesto demanding a "second front"—DW July 26, 1942

Brady, Wm. J. (Local 1149)
Signed a CRC manifesto defending CP—TW May 25, 1947

Brandon, Victor W. (Local 623)
Signed a CP manifesto demanding a "second front"—DW July 26, 1942

Brant, Carl (Local 1421)
Sponsored American Youth for Democracy—Report of California Legislative Committee on Un-American Activities 1948

406 Brett, C. L. (UE Unity Lodge)
Secretary of Hartford Committee to Free Earl Browder—DW October 15, 1941

Briney, H. K. (Local 610)
Signed a CP manifesto demanding a "second front"—DW July 26, 1942

Brown, Garvin (Local 441)
Sent May Day greetings to DW—TW April 28, 1946

Brumbaugh, Ivan (Local 709)
Signed a CRC manifesto defending CP—TW May 25, 1947

Burdick, A. A. (Local 437)
Signed a CRC manifesto defending CP—TW May 25, 1947

Burkhardt, Logan (Local 601)
Signer of CP Peace Proclamation—DW January 3, 1940; Member of CP arrested for fraud in obtaining signatures on nominating petitions, DW July 12, 1940; Convicted a fraud in obtaining signatures—DW November 1, 1940

Burns, Frank (Local 430)
Identified as CP member by James Conroy before Committee on Un-American Activities, July 25, 1947; Signed petition of Citizens Committee to Free Earl Browder—DW May 2, 1941; Delegate to APM—DW May 2, 1941

Carpenter, Ethel (UE FO)
Signed a CRC manifesto defending CP—TW May 25, 1947

Chamber, William N. (Local 601)
Signed a CP manifesto demanding a "second front"—DW July 26, 1942

Christilaw, Jack (Local 935)
Signed a CRC manifesto denouncing recent indictment of 12 leaders of CP—DW September 23, 1948; Endorsed CP's Michigan Herald—MH August 31, 1947

Chuck, Andrew (Local 424)
Signed petition of Citizens Committee to Free Earl Browder—DW March 16, 1942

Clark, William (Local 441)
Sent May Day greetings to DW—TW April 28, 1946

Clough, Al (UE FO)
Signed protest on behalf of CP nominating petition signers—DW Sept. 10, 1942

Cluka, Earl (Local 1145)
Signed petition of NFCL—January 1943

Clutter, Sam (Local 623)
Signed CP manifesto demanding a "second front"—DW July 26, 1942

Coe, Maceo (Local 446)
Meeting chairman of Workers Alliance—DW August 14, 1937; Signed CRC manifesto denouncing indictment of 12 CP leaders—DW Sept. 23, 1948

407 Cole, Lloyd (Local 610)
Signed a CP manifesto demanding a "second front" —DW July 26, 1942

Composto, Anthony (Local 1227)
Supported CP leader, Israel Amter, for Governor of New York—DW Oct. 27, 1942

Conroy, Harold (Local 270)
Identified as CP member by James Conroy before Committee on Un-American Activities, July 25, 1947; Signed CP manifesto demanding a "second front"—DW July 29, 1942

Constantino, Robert (UE District 1)
Signed petition of Citizens Committee to Free Earl Browder—DW March 4, 1942

Corcos, Chrystal (UE District 4)
Signed Statement of Citizens Committee of Upper West Side—DW July 4, 1943

Couch, Edward (Local 615)
Signer of CP's Peace Proclamation—DW January 4, 1940

Czerwinski, E. (Local 209)
Signer of petition of Citizens Committee to Free Earl Browder—DW Nov. 15, 1941

Dahl, Harold (Local 907)
Served in Spain with Abraham Lincoln Brigade and traveled on Spanish passport in name of Hernando Diaz; Endorsed CP's Michigan Herald—MH August 31, 1947

Daniel, Nathan (Local 1227)
Signed CRC manifesto defending CP—TW May 25, 1947

Darin, Margaret (Local 601)
Signer of CP's Peace Proclamation—DW January 4, 1940

Daugherty, Marshall (Local 601)
Signed CP manifesto demanding a "second front"—DW July 26, 1942

Davis, E. E. (Local 1113)
Signed petition of Citizens Committee to Free Earl Browder—DW January 25, 1942

Decavitch, Victor (UE District 7)
Sent greetings to DW on 20th anniversary—TW January 9, 1944; Sponsored Joint Anti-Fascist Refugee Committee pamphlet—"I Know You Are My Brother"

Delaney, Thomas (UE District 1)
Sponsored CP's United May Day Conference in Philadelphia—DW April 4, 1946; Signed CRC manifesto defending CP—TW May 25, 1947; Signed CRC manifesto denouncing indictment of CP leaders—DW Sept. 23, 1948

Delong, Harley (Local 209)
Member of Bridgeport Committee to Free Earl Browder—DW Oct. 15, 1941; Signed petition of Citizens Committee to Free Earl Browder—SW Jan. 25, 1942

408 Divine, James (UE District 8)
Signed CRC manifesto defending CP—TW May 25, 1947

Dixon, Robert (UE District 4)
Signed CP manifesto demanding a "second front"—DW August 1, 1942

Dochmae, Stephen (Local 155)
Signed CRC manifesto defending CP—TW May 25, 1947

Dodson, George (UE District 1)
Signed petition of Citizens Committee to Free Earl Browder—DW March 4, 1942

Doggett, E. L. (UE Los Angeles)
Signed petition of Citizens Committee to Free Earl Browder—SW Jan. 25, 1942

Donegan, Dan (Local 229)
Signed CP manifesto demanding "second front"—DW July 29, 1942

Dorcik, Rudolph (Local 735)
Delegate to convention of American Committee for Protection of Foreign Born—Proceedings 1947

Dorlack, Joseph (Local 1131)
Signed petition of Citizens Committee to Free Earl Browder—SW Jan. 25, 1942; Called for release of Earl Browder at Wisconsin State CIO convention—DW Nov. 12, 1941

Dornetto, Dominick (Local 613)
Signed CP manifesto demanding "second front"—DW July 26, 1942

Draffen, Carlton C. (Local 935)
Endorsed CP's newspaper, Michigan Herald — MH August 31, 1947

Drezner, Joseph (Local 1225)
Wrote letter to UE News calling for release of Earl Browder—UE News August 30, 1941

Duffy, James (Local 610)
Signed CP manifesto demanding "second front"—DW July 26, 1942

Dutner, Fred (UE organizer)
Candidate for trustee in Cicero, Illinois on Progressive Party ticket—Chicago Star March 6, 1948

Eckstein, Bert (Local 441)
Sent May Day greetings to DW—TW April 28, 1946

Egri, James (Local 724)
Signed CRC manifesto denouncing indictment of 12 CP leaders—DW Sept. 23, 1948

Eismann (Local 766)
Signed CP manifesto demanding "second front"—DW August 11, 1942

Elliott, Kay (Local 709)
Signed CRC manifesto denouncing indictment of 12 CP leaders—DW Sept. 23, 1948

409 Evans C. (UE California)
Signed petition of Citizens Committee to Free Earl Browder—SW January 25, 1942

Ewing, Roy (Local 606)
Signed CP manifesto demanding "second front"—DW July 26, 1942

Fabyanic, Albert (Local 610)
Signed CP manifesto demanding "second front"—DW July 26, 1942

Fazekas, Frank (Local 203)
Identified as CP member by Joseph Julianelle before Committee on Un-American Activities—July 24, 1947

Fox, Ruth (UE Baltimore)
Sent greetings to Soviet Union on 26th anniversary of Red Army—Baltimore Sun, February 23, 1944

Frank, Charles (Local 1225)
Signer of telegram for Citizens Committee to Free Earl Browder—DW December 28, 1941

Frazier, William A. (UE FO)
Signed CRC manifesto defending CP—TW May 25, 1947

Fried, Emanuel J. (UE FO)
Signed protest on behalf of CP nominating petition signers—DW September 10, 1942

Friedlander, Sidney (Local 301)
Identified as CP member by Salvatore M. Vottis before Committee on Un-American Activities, July 25, 1947

Furda, George (Local 441)
Sent May Day greetings to DW—TW April 28, 1946

Gad, Andrew T. (Local 768)
Signed CRC manifesto defending CP—TW May 25, 1947

Gaeth, Arthur (UE Radio Commentator)
Received annual award of Communist-controlled Voice of Freedom Committee 1948. Praised in sketch in DW on assumption of his UE broadcasts—DW October 11, 1947

Gardner, Fred (UE IR)
Signed CP Peace Proclamation—DW January 4, 1940

Garfield, Arthur (UE IR)
Signed CRC manifesto defending CP— TW May 25, 1947

Garlow, Don (Local 606)
Signed CP manifesto demanding "second front"—DW July 26, 1942

Garner, Joseph (UE Cleveland)
Signed petition of Citizens Committee to Free Earl Browder—DW March 9, 1942

Garretson, James (UE Seattle)
Sent greetings to DW on 20th anniversary—TW January 9, 1944

410 Gaylburd, Marcus (Local 155)
Signed CRC manifesto defending CP—TW May 25, 1947

Gerlack, John R. (Local 475)
Member, NY Trade Union Committee to Free Earl Browder—DW February 5, 1942

Gionannini, Leo J. (Local 1117)
Signed CRC manifesto defending CP—TW May 25, 1947

Gilbert, Sidney (Local 1227)
Sent greetings to DW on 20th anniversary—TW January 9, 1944

Gilles, Earl (Local 1154)
Sent May Day greetings to CP's Chicago Star—Chicago Star April 26, 1947

Glaser, Elmer W. (Local 935)
Endorsed CP's Michigan Herald—MH August 31, 1947; Signed CRC manifesto denouncing indictment of 12 CP leaders—DW September 23, 1948

Gliniecki, August (Local 626)
Signed CP manifesto demanding "second front"—DW July 26, 1942

Gliona, Will (Local 301)
Signed call for American Youth Congress—Proceedings January 28, 1938

Gojack, John T. (UE District 9)
Member, Natl. Wallace for President Committee—press release March 23, 1948

Gourley, Edna (UE District 4)
Member, Committee for Wider Understanding with Soviet Union—DW August 25, 1941

Grabbe, Stanley (Local 1154)
Sent May Day greetings to CP's Chicago Star—CS April 26, 1947

Grabon, Boleslaw (Local 441)
Sent May Day greetings to DW—TW April 28, 1946

Gray, Justin (UE District 11)
Coordinating chairman of Veterans' Committee Against Discrimination—letterhead January 11, 1946

Greene, James (Local 1227)
Supported candidacy of Elizabeth Gurley Flynn for Congress on CP ticket—DW October 27, 1942

Grimm, Rudolph (Local 1227)
Supported candidacy of Israel Amter for Governor on CP ticket—DW October 27, 1942

Gudinas, Julia (Local 1150)
Sent May Day greetings to CP's Chicago Star—CS April 26, 1947

Gulotta, Frances (Local 430)
Member, Citizens Committee for Re-election of Peter V. Cacchione—DW August 3, 1945

Gumming, Sid (UE Hartford)
Signed CP manifesto demanding "second front"—DW July 29, 1942

411 Gunther, Lynn (UE Los Angeles)
Signed petition of Citizens Committee to Free Earl Browder—SW January 25, 1942

Guttko, Erwin A. (Local 448)
Signed CRC manifesto defending CP—TW May 25, 1947

Howago, Thomas (Local 617)
Signed CRC manifesto denouncing indictment of 12 CP leaders—DW September 23, 1948

Hamilton, W. (UE District 4)
Signed CRC manifesto defending CP—TW May 25, 1947

Harley. Hugh Jr. (Local 329)
Signed petition of Citizens Committee to Free Earl Browder—DW February 23, 1942

Harrison, Robert (UE FO)
Signed CRC manifesto defending CP—TW May 25, 1947

Hasson, Isaac (Local 1124)
Signed petition of Citizens Committee to Free Earl Browder—TW January 25, 1942

Heffner, Curtis D. (Local 128)
Signed CRC manifesto denouncing indictment of 12 CP leaders—DW September 23, 1948

Hines, Harry (Local 766)
Signed CP manifesto demanding "second front"—DW August 11, 1942

Hirschberg, Herbert (UE IR)
Signed CRC manifesto defending CP—TW May 25, 1947

Hochenberry, Thomas (Local 610)
Signed CRC manifesto defending CP—TW May 25, 1947

Horie, Jean (UE District 4)
Acting Executive Secretary, American Youth Congress, 1939; Speaker for American Committee for Protection of Foreign Born—DW March 31, 1941

Hughes, George F. (UE Los Angeles)
Signed petition of Citizens Committee to Free Earl Browder—TW January 25, 1942

Hunter, William (Local 601)
Signed CP Peace Proclamation—DW January 4, 1940

Janowicz, William (Local 401)
Signed CRC manisfesto defending CP—TW May 25, 1947

Jocwinski, Sigmond (Local 441)
Sent May Day greetings to DW—TW April 28, 1946

Jones, William (Local 761)
Signed CP manifesto demanding "second front"—DW August 22, 1942

Joyce, Hugh L. (Local 201)
Signed CRC manifesto defending CP—TW May 25, 1947

Juby, Morley R. (Local 935)
Endorsed CP's Michigan Herald—MH August 31, 1947

412 Judth, Ernest (Local 1150)
May Day greetings—Chicago Star—CS April 26, 1947

Juib, Mary (247)
CP manifesto—second front—DW July 29, 1942

Kaplan, Harry (District 2)
CP manifesto—second front— DW July 29, 1942

Kaplan, Louis (FO)
CRC manifesto defending CP—TW May 25, 1947

Kelley, William (136)
Sponsored CP's United May Day Conference, Philadelphia—DW April 4, 1946

Kenneck, Charles (155)
CRC manifesto defending CP—TW May 25, 1947

Ketzel, Ernest C. (768)
CRC manifesto defending CP—TW May 25, 1947

Kirkendall, K. M. (768)
CRC manifesto on CP—TW May 25, 1947

Kling, Martin (1131)
Petition, Citizens Committee to Free Earl Browder—TW January 25, 1942

Knowles, Mary (Local W'House X-Ray Co.)
Sent greetings to Soviet women on Intl. Women's Day —TW March 8, 1942

Kobylinski, Jean (431)
(same as Knowles)

Koenig, Oscar (606)
CP second front manifesto—DW July 26, 1942

Kontrick, Harry (626)
(same as above)

Korman, Fred (427)
CRC manifesto denouncing indictment of 12 CP leaders —DW September 23, 1948

Kosinski, Henry (232)
Denounced Pres. Roosevelt's use of troops in opening North American Aviation plant—UE News June 25, 1941

Krzyswonos, Stanley (District 4)
CRC manifesto defending CP—TW May 25, 1947

Kuehne, Herman (1111)
Delegate, convention of American Committee for Protection of Foreign Born—Proceedings 1947

Kurtz, Hannah (District 7)
Petition, Citizens Committee to Free Earl Browder— DW March 16, 1942

413 LaMiaux, Ina (1150)
May Day Greetings to CP's Chicago Star—Chicago Star April 26, 1947

Lang, Harvey (1108)
Petition, Citizens Committee to Free Earl Browder— DW March 16, 1942

Larkin, Edwin D. (155)
CRC manifesto on indictment of 12 CP leaders—DW September 23, 1948

Larkin, Joseph (District 6)
CP Peace Proclamation—DW January 4, 1940

LaRonca, Frank (District 2)
Member, Committee for Wider Understanding with Soviet Union—DW August 25, 1941

Lawrence, George H. (District 4)
CRC manifesto on CP—TW May 25, 1947

Lees, Dorothy (1154)
CRC manifesto defending CP—TW May 25, 1947; May Day greetings to Chicago Star—CS April 26, 1947

LeFavour, Philip (271)
20th anniversary greetings to DW—TW January 9, 1944

Lemarese, John (1227)
Supported Israel Amter for Governor on CP ticket—DW October 27, 1942

Lerner, Nathan (1225)
Signed telegram for Citizens Committee to Free Earl Browder—DW December 28, 1941; Signed petition for Citizens Committee to Free Earl Browder—TW January 25, 1942

Leto, John (103)
Barred by the Joint Army-Navy Air Force Board from entering classified areas of RCA plant in Camden, N.J.; Member of International Workers Order, Italian Lodge No. 2656; Member of Communist Party—confidential information

Lewis, Glover (907)
Endorsed Michigan Herald—MH August 31, 1947

Lindman, Oscar (1139)
Member, Minnesota State Committee to Free Earl Browder—DW November 8, 1941; Petition, Citizens Committee to Free Earl Browder—TW January 25, 1942

Lizzano, Tony (409)
CRC petition on CP—TW May 25, 1947

Lochner, William (623)
CP second front manifesto—DW July 26, 1942

414 Lofgren, Ragnar (1150)
May Day greetings to Chicago Star—CS April 26, 1947

Lowe, S. (626)
CP second front manifesto—DW July 26, 1942

MacLaren, Charles (441)
May Day greetings to DW—DW April 28, 1946

Majors, T. Louis (IR)
Signed petition of National Federation of Constitutional Liberties, January 1943.

Mance, Frank (721)
Petition, Citizens Committee to Free Earl Browder—DW March 9, 1942

Mandarino, Thomas (451)
CRC manisfesto on CP—TW May 25, 1947

Marcum, Charles (754)
(same as above)

Marcus, Ralph D. (709)
(same as above)

Martin, George (441)
May Day greetings to DW—TW April 28, 1946

Martindale, M. E. (1150)
May Day greetings to Chicago Star—CS April 26, 1947

Martinson, H. M. (FO)
CRC manifesto on CP—TW May 25, 1947

Massa, Leon (District 2)
(same as above)

Matone, Dan (623)
CP secon ' front manifesto—DW July 26, 1942

Mattia, Mary (District 4)
Sent greetings to Soviet women on International Women's Day—TW March 8, 1942

Mauch, Frank (721)
Sponsored Schappes Defense Committee—DW October 13, 1941

McDonald, Claude (1152)
Signed petition of Natl. Federation for Constitutional Liberties, January 1943

McEntree, Pat (441)
May Day greetings to DW—TW April 28, 1946

McGillicudy, Neil (District 2)
CP second front manifesto—DW July 29, 1942; Identified as CP member by Joseph Julianelle before Un-American Committee July 24, 1947

McNaughton, Robert (District 11)
Petition, Citizens Committee Free Earl Browder—TW January 25, 1942

415 Meadows, Jerry (907)
Endorsed Michigan Herald—MH August 31, 1947

Melvin, Harry (623)
CP second front manifesto—DW July 26, 1942

Meredith, Richard (623)
CP second front manifesto—DW July 26, 1942

Metcalfe, John A. (601)
(same as above)

Meyers, Jack (138)
Denounced Pres. Roosevelt's use of troops to open North American Aviation plant—DW June 17, 1941

Miller, Harold J. (1131)
Petition, Citizens Committee Free Earl Browder—TW January 25, 1942

Miller, William H. (1207)
Member, NY trade union committee Free Earl Browder—DW February 5, 1942

Mintz, Robert (UE Hartford)
Member, Hartford Committee Free Earl Browder—DW October 15, 1941

Mitchell, John (FO)
CRC manifesto on CP—TW May 25, 1947

Moritz, Michael (1227)
Sponsor of Labor Committee for Amter—lettered 1942

Muller, Edward (District 4)
Signed CP manifesto demanding "second front"—DW August 1, 1942

Mulock, John (California)
Signed petition of Citizens Comm. Free Earl Browder—SW January 25, 1942

Muriello, Marie (437)
CRC manifesto defending CP—DW May 25, 1947

Narushef, Teddy (441)
Sent May Day greetings to DW—TW April 28, 1946

Nash, James A. (903)
Expelled from Indiana I.U.C. for refusal to follow CIO policy on Progressive Party—Chicago Star, March 27, 1948

Newell, Charles (IR)
Signer of statement defending CP—DW March 5, 1941

Ober, Bebe (768)
CRC manifesto defending CP—TW May 25, 1947

O'Brien, Joseph (277)
(same as above)

416 O'Hare, Arthur (District 4)
CRC manifesto defending CP—TW May 25, 1947

Olson, Rudy (1146)
(same as above)

Pagnotta, Robert (1225)
Treasurer of Citizens Committee to Re-Elect Peter V. Cacchione—DW August 3, 1945

Paradise, John (417)
CRC manifesto defending CP—TW May 25, 1947

Parker, Frank (District 2)
(same as above)

Peck, Charles (441)
May Day greetings to DW—TW April 28, 1946

Pergollizzi, Anthony (441)
May Day greetings to DW—TW April 28, 1946

Perillo, Vincent (1227)
CRC manifesto on CP—TW May 25, 1947

Persily, Joseph D. (1114)
Instructor, Abraham Lincoln School—Fall Program 1943

Petryk, Gene (149)
CRC manifesto on indictment of CP leaders—DW September 23, 1948

Phillips, D. E. (710)
(same as above)
Piegdon, Walter (441)
May Day greetings to DW—TW April 28, 1946
Pipe, William (UE Los Angeles)
Petition, Citizens Committee to Free Earl Browder—TW January 25, 1942
Pohley, Louise (935)
Endorsed Michigan Herald—MH August 31, 1947
Pope, Helen (UE Dayton)
CRC manifesto on CP—TW May 25, 1947
Rogerson, Roy (277)
(same as above)
Romeo Vincent J. (243)
(same as above)
Rooney, George H. (District 4)
(same as above)
Rosato, Joseph (1225)
Member, Citizens Committee to Re-elect Peter V. Cacchione—DW August 3, 1945
Ross, Frank (735)
CRC manifesto on CP leaders—DW September 23, 1948

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417 Filed January 19, 1951

Supplemental Affidavit in Support of Motion to Dismiss Indictment on the Ground that the Grand Jury was Illegally Constituted

[Supplemental Affidavit stricken for the reason that it is legally insufficient. Objection noted. James R. Kirkland, Judge. January 19, 1951.]

STATE OF NEW YORK,
COUNTY OF NEW YORK, *ss:*

DAVID SCRIBNER, being duly sworn, deposes and says:

I am one of the attorneys for the defendant herein.

This supplemental affidavit is in further support of the motion to dismiss the indictment, on the ground that the

Grand Jury which voted the indictment was illegally constituted as to this defendant.

Since the date of my affidavit of December 16, 1950, heretofore submitted in support of this motion, I have ascertained and assert, upon information and belief, that in addition to the ten government employees who were members of the Grand Jury which voted the indictment herein, referred to in my former affidavit, there were two Grand Jury members whose husbands were federal government employees at the time the said Grand Jury considered and acted upon the indictment of this defendant.

The defendant respectfully requests that the indictment should be dismissed herein for the reasons given in my former affidavit in respect to the government employment of grand jurors, as supplemented by the information herein with respect to two additional members of the Grand Jury, and with respect to the miasma of fear as it affects government employees. The following individuals were members of the Grand Jury which indicted the defendant herein, and who were employed by the federal government: Laura M. Boyd, Robert G. Dorrity, William H. Floyd, Harry Lee Gray, Charles A. Lickner, Ralph A. Montgomery, Thelma G. Nelson, Raymond D. O'Brien, James P. Perry, James J. Worthington. Mrs. Ida Mary
418 Waldron, wife of a federal employee, and Mrs. Inez Bryant, wife of a federal employee, were also members of this Grand Jury.

In the alternative, defendant requests that the Court direct that a hearing be held pursuant to Rule 12(b)(4) of the Federal Rules of Criminal Procedure, so that defendant may prove that more than 11 of the grand jurors were biased and prejudiced against the defendant.

Government employees for the past few years have been the subject of an active campaign to determine whether they are in any way sympathetic or tolerant to "Communism" or "Communists," or sympathetic to any person who in turn is associated with "Communism" or "Com-

munists" or with organizations which have been called "Communist Fronts" or with persons who may have been called "Communist fellow travelers."

This has developed a miasma of fear among government employees in the District of Columbia. Congressional leaders and congressional committees and the heads of the various federal executive agencies have called for or engaged in efforts to "purge" from government employ persons found to be so stigmatized. As a class federal government employees cannot exercise the degree of impartiality required by the Constitution and the statutes in the carrying out of their functions as grand jurors in a case such as the one at bar, where the defendant is charged with an offense related to the investigation of "Communist" influence.

The issue involved in the investigation by the House Un-American Activities Committee which led to the contempt charge herein, related, according to the Committee itself, to the "infiltration" of Communists in labor unions and particularly in the union of which the defendant is a member or officer. This is the very Committee which has given much time and consideration to the investigation of alleged Communist influence among federal government employees and has announced time and again that the Committee files have been used by the investigative agencies of the federal government to determine the loyalty of federal government employees. (Report of the Committee on Un-American Activities to the U. S. House of Representatives, 80th Cong. 2nd Sess., Investigation of Un-American Activities in the U. S., p. 22, attached to the affidavits of Quinn, Panzino and Fitzpatrick, respectively, as Exhibit 7.)

419 Federal government employees reasonably come to the conclusion that it would endanger their job tenure with the government if they in any way acted in a manner which could be considered to be a sympathetic attitude toward or treatment of a person accused of an offense arising out of an investigation of Communist activ-

ities. That would certainly be true of federal government employees who are members of a grand jury where their employer, the United States Government, is the prosecutor, and where the offense is related to the investigation of Communist activities.

That a citizen in the impartial execution of his civic duties may have a cloud of suspicion as to his loyalty arise is demonstrated most vividly by the reaction against the presiding Justice in the first Hiss trial. Following the conclusion of that case in which the jury could arrive at no conclusion, members of Congress introduced a resolution demanding the investigation of Justice Kaufman, impugning his loyalty solely because he attempted to exercise the functions of his office to the best of his ability. Furthermore, one of the jurors who had refused to vote for conviction against Alger Hiss was required to appeal to the law enforcement agencies for protection from those individuals who were harassing him because of that vote.

Only recently, when the Circuit Court of Appeals for the 9th Circuit granted bail to Harry Bridges, who was accused of perjuring himself with reference to Communist affiliation, U. S. Senator Langer on the floor of Congress demanded an investigation of those respected jurists. It is in this atmosphere that a juror must attempt to arrive at an impartial and independent judgment of the facts. Difficult as it is for any citizen, it is well-nigh impossible for federal employees.

For a number of years, federal employees have been subjected to loyalty oaths and tests and investigations of any possible sympathetic association with Communists, or beliefs allegedly of a Communistic nature. However, with the adoption of the President's Loyalty Order of 1947, Executive Order 9835, federal government employees were subjected to the most intensive and searching investigation of their political beliefs and associations for the purpose of ferreting out and discharging those who were found, in the words of the President's Loyalty Order (Point V, Section 2), to have

420 "F) Membership in, affiliation with or sympathetic association with any foreign or domestic organization, association with any foreign or domestic organization, association, movement, group or combination of persons designated by the Attorney General as totalitarian, communistic, fascist or subversive, or as having adopted a policy of advocating or approving the commission of acts of force or violence to deny other persons from rights under the Constitution of the United States, or as seeking to alter the form of government of the United States by unconstitutional means."

In addition, the Attorney General was authorized to establish lists of organizations characterized by him as being "Communist," "totalitarian," "subversive," etc. Membership in or association with any such organizations was to be given serious consideration to ascertain whether a federal employee was loyal to the government or whether he should be dismissed from its employment. The Federal Bureau of Investigation was given the responsibility of investigating the loyalty of federal employees.

The very adoption of the Loyalty Order and the appointment of a Loyalty Board created a hysteria among government employees which in turn was reflected by and encouraged in the Washington public press and radio. Prominent citizens and leaders of the community throughout the nation attacked the Loyalty Order because of its lack of specifications or limitations. It was pointed out time and again that the Loyalty Order and what it implied would not only create an unhealthy terror in the minds of persons already employed by the government, but would prevent many loyal Americans from entering the government service under the ugly conditions implicit in the Loyalty Order and its proposed operations and functioning.

On the other hand, many others in the public eye, including a substantial part of the press, freely voiced their opinions for public consumption that employees of the federal government should in fact be subjected to the most rigorous and unlimited kind of investigation and interrogation

as to their state of mind in respect to their political beliefs, opinion and associations, no matter how far removed, and that if there was any question whatsoever or any doubt about what they considered to be "loyalty," the culprits should be summarily dismissed from their employment and in fact blacklisted.

Attached hereto as exhibits are typical comments as reflected in the press on the Loyalty Order. From the very day that the Loyalty Order was considered, the public press daily, and particularly in the District of Columbia, featured any news relating to the so-called "Loyalty Program" as it affected government employees and highlighted the evils or the benefits of such a program. What
421 is significant is that these very conflicting points of view in and of themselves engendered further fears and an apprehension among government employees in respect to the retention of their jobs as a means of livelihood (Exhibits 1, 2, 3, 4, 5, 6, 7 and 8).

The Report of the President's Committee on Civil Rights, 1947, page 51 states:

> "An employee whose loyalty is questioned is not charged with a crime. But loss of job and inability to obtain another one is a severe punishment to impose on any man. Accordingly provision should be made for such traditional procedural safeguards as the right to a bill of particular accusations, the right to subpoena witnesses and documents . . . where genuine security considerations permit . . . the federal government must maintain a loyalty program which adequately protects the civil rights of its employees."

On page 101, referring to the Loyalty Program, the Report states:

> "The freedom of opinion and expression enjoyed by these people is in many ways dependent upon the attitudes and practices of the government."

Government employees recognized, as indeed they might, that as Circuit Judge Edgerton stated in his dissent in the *Bailey* v. *Richardson* case, 187 F. 2d 46, App. D.C.

> "Ostracism inevitably followed a dismissal . . . a disloyalty finding is closely akin to a finding of treason; the public hardly distinguishes between the two."

The actual functioning of the Loyalty Review Boards hardly dispelled the fears that were reasonably entertained by federal government employees.

At the very time that the Grand Jury in the instant case was considering whether to return indictments against this defendant, and almost a month before the indictments were actually returned, the U. S. Civil Service Commission reported publicly that 280 government employees had already been dismissed as security risks under the Federal Loyalty Program; that 13,202 employees had been the subject of full and complete investigation by the Federal Bureau of Investigation and other agencies; that 1,593 federal employees had resigned while under FBI investigation, and 1,171 federal employees had left their government jobs before the Loyalty Boards had completed their hearings.

This information could certainly not have been any comfort to the 10 government employees who were members of the Grand Jury which returned the indictment against this defendant or for the 2 housewives on the federal Grand Jury whose husbands were government employees. Out of the 23 members of the Grand Jury, 12, a majority, had reasonable grounds to fear that if they did not act in accord with the wishes of their government, personified by the federal prosecutor who presented the case for the
422 government, they would become numbers in a list of those investigated or discharged by the federal government for "sympathetic association" with Communists or those accused of Communist beliefs or engaging in Communist activities and would thereby lose any source of livelihood for themselves and their families.

It became apparent that the only way that a government employee could possibly hope to safeguard his livelihood and the security of himself and his family was to express a hostility to any person, idea, or activity which could in any way possibly be construed to be of a "Com-

munist" character. As a matter of fact, this was apparently made a requirement by those who were carrying on the so-called Loyalty Program. The hearings conducted by the Loyalty Review Board, which became the subject of common gossip and conversation among government employees in the District, corroborated this as a requirement. The most searching questions into the minds and the attitudes of government employees who were the subject of the investigation, or government employees who appeared as witnesses in these hearings, were a common routine at these hearings. For instance, a Chairman of a Loyalty Board made the following formal statement in respect to his understanding, as one charged with enforcing the Loyalty Program, of what loyalty meant. He said,

> "Loyalty to the United States is an instinctive matter. It is a matter of the mind and of the heart. I believe the way that one speaks an opinion on matters of strengthening the permanency of this government and protection of it are instinctive. It seems to me one ought to know right off at once how he feels about matters affecting the continuance and preservation of our form of government, and that no one, it strikes me, individually ought to require time to make up his mind as to how he feels on a question like that."

Federal government employees had the privilege of reading in the daily press not only of the possible attacks on their loyalty through Loyalty Review Boards, but the constant and repeated investigations of the House Un-American Activities Committee and other committees of Congress into the loyalty of government empolyees. (Hearings regarding Communism in the District of Columbia, Part I, Hearings before the Un-American Activities Committee, House of Representatives, 81st Con., 1st Sess., June 28, 29, July 6, 12 and 28, 1949; Hearings regarding Communism in the United States Government, Part 1, Hearings before the Un-American Activities Committee, House of Representatives, 81st Cong., 2nd Sess., April 21, 25, 29, May 4, 5, and 6, 1950; July 30 and Aug. 7, 1948; June 8,

1950; Export Policy and Disloyalty, Hearings before the Investigation Subcommittee of the Committee on
423 Expenditures in the Executive Departments, U. S. Senate, 80th Cong., 2nd Sess., July 30, 1948; Hearings before the Committee on Un-American Activities, House of Representatives, 80th Cong., 2nd Sess., Hearings Regarding Communist Espionage in the U. S. Government, Part II, December 7, 8, 9, 10, 14, 1948.)

Certain members of Congress repeatedly accused,—and with a great deal of attendant local and national publicity, —administration officials from the President of the United States down to the lowliest supervising officer of a government department of harboring government employees whose loyalty was in serious question. This attack brought with it the answer by officials of government that the accusations were not warranted and that in fact the government was constantly investigating its employees and weeding out those whose loyalty was in question.

Nor was it much of a comfort to federal government employees to learn that the FBI was engaged in the greatest manhunt among federal civil servants that this country has ever experienced. (Department of Justice Appropriations for 1951, Hearings before the Subcommittee on Appropriations, House of Representatives, 81st Cong., 2nd Sess., pp. 225, 226.)

The director of the FBI himself has affirmed the fact that whenever a federal employee is accused of "Communist affiliation," whether or not such accusations are based in fact, a full-scale investigation is instituted by the Bureau. Malicious accusations, gossip and rumor mongering, therefore, afford a basis for FBI investigation of a government worker. The awareness of such a fact is sufficient to cause a government worker to act in such a fashion that active hostility and lack of tolerance as to those accused of Communism is an evident characteristic of his demeanor, attitudes and actions. (*New York Herald-Tribune,* November 16, 1947, at p. 3.)

The records and public statements of the FBI indicate that it has a fingerprint collection estimated to be in the neighborhood of 112,000,000 individuals; that the FBI has access to records of local police forces; has access to military records, employment rolls in large industrial plants; it exchanges information with industry and industrial associations; the FBI obtains data on the subversiveness of individuals from banks, business houses and railroads, that the FBI keeps dossiers and adds names to its files on the basis of information it receives regardless of the sources; that it utilizes the records and files of the House Un-American Activities Committee.

424 It might be noted that the vast majority of federal workers who are employed in Washington, D. C. reside in the District of Columbia. These employees do not have the right to cast a ballot to elect their representatives in Congress or the President of the United States. The normal channels open to the average American citizen who wishes to express his disapproval of the policies and actions of his government, are not afforded these federal employees. Their community life as well as their employment is controlled and supervised by individuals and agencies against whom they have no recourse.

Under these circumstances a juror who is employed by the government may not render an impartial opinion, particularly in a criminal proceeding such as this. A federal employee serving on a grand jury who failed to indict at the request of the government the defendant herein would have reasonable grounds for fearing that such refusal would be considered evidence in determining whether or not he was loyal to the United States government.

The FBI has investigated and checked every federal grand juror who is a government employee, and that person's employment is conditioned by a favorable report from that agency which is a subdivision of the prosecutor's office, the United States Attorney General's office. Information concerning "loyalty" of federal employees who are grand jurors is available to the Attorney General's office

prior to the time that grand juror is sworn in. And that grand juror remains under the surveillance of the FBI during his period of employment by the government.

Undoubtedly these investigatory activities of the government, the standards used in determining an individual's loyalty by the Loyalty Review Board, the clear policy of the federal government that it is at war with Communism at home and abroad, the demand of the federal government that all participate in this anti-Communist crusade has a two-fold influence upon the grand juror employed by the federal government. He faces an intensive barrage of anti-Communism which inevitably has the effect of promoting hostility against any individuals said to be associated with Communist activities. This has the effect of predisposing such a juror against any defendant who has been so characterized, even though that juror is not aware of any conscious bias against the defendant. Secondly, he must consciously demonstrate an anti-Communist bias whenever confronted with an issue posed as related to Communism. Regardless of his personal predilections in the particular instance, he has reasonable grounds for believing that a vote of acquittal or no indictment could well serve as a basis for further investigation of his loyalty or as evidence to be used in proof of his alleged disloyalty.

425

It is respectfully submitted that the above demonstrates that bias, conclusively presumed as a matter of law, must be attributed to the 12 of the 23 grand jurors who returned the indictment against this defendant and who are themselves government employees or whose spouses are government employees.

The motion to dismiss the indictment on the ground that the grand jury was illegally constituted should be granted, or in the alternative a hearing should be granted the defendant to prove by evidence that the said grand jury was illegally constituted.

DAVID SCRIBNER.

Sworn to before me this 17th day of January, 1951,

DAVID RATNER.

David Ratner, Notary Public, State of New York, No. 41-3211050, Qualified in Queens County, Certs. filed with N. Y., Kings, Bronx and Westchester Co. Clks., Queens, King, N. Y. & Bronx Co. Registers, Commission Expires March 30, 1951.

CERTIFICATE

We hereby certify that we have this 17th day of January, 1951, sent a copy of the foregoing affidavit, by official United States mail, to the United States Attorney and Assistant United States Attorney, addressed as follows:

1. George Morris Fay, United States Attorney,

2. Charles B. Murray, Assistant United States Attorney, Office of the United States Attorney, District of Columbia, Washington 1, D. C.

DAVID SCRIBNER and ALLAN R. ROSENBERG,
Attorneys for Defendant.

426 **Scribner Exhibit No. 1**

Inside Washington:

WHY GOVERNMENT EMPLOYES' MORALE IS LOW

(Copyright, 1947, by The Chicago Sun and
The Newspaper PM, Inc.)

Washington.—Morale among many Government workers is at a low ebb. Chief reason is the continued "loyalty" purge which struck again in the super-secret central intelligence group, where 14 were fired for "security" reasons.

Workers complain they don't know where the ax will fall next, or when they will be called to account for liberal or new deal views. They don't put much stock in reassurances from department heads that their civil rights will be protected. The State Dept. purge has disillusioned them on this score.

The Civil Service Commission is aware of the unrest and the other day in a little-noticed speech in Pittsburgh the Commission president, Harry B. Mitchell, tried to put their fears to rest. Mitchell said that so far as 99 per cent of Government workers are concerned, the loyalty purge is ended.

According to the Civil Service Commissioner the purge was over for the vast majority when their fingerprints and loyalty questionnaire were filed.

"I may be too conservative," Mitchell said, "but my opinion is that not more than a fraction of 1 per cent of the employes will have to be further investigated, and that the persons already known to be disloyal are only a small fraction of the above fraction."

He warned against any action by department heads which would make non-Communist workers with left-wing beliefs the "innocent victims" of the current purge and he added:

"Let us keep in mind that the radicalism of today may become the progressivism of tomorrow and the conservatism of after years."

427 **Scribner Exhibit No. 2**

N. Y. Herald Tribune, November 9, 1947

FEDERAL LOYALTY CHECK IS NO. 1 TOPIC IN CAPITAL

Some Government Employees Are 'Bitter, Upset and Scared,' Others See No Peril to Innocent; Press Criticizes Marshall and Truman

By Bert Andrews

Washington, Nov. 8.—In this city of Washington, where 195,000 of the 2,000,000 civilian employees of the executive branch of the Federal government work and play and talk—talk, that is when they're not too frightened to open their mouths—the burning topic of conversation this week has been the whole problem of security and loyalty.

Always the conversation gets around to one basic question. It can be put this way:

"Is there anything to be alarmed about, as far as the 195,00 employees here and the 2,000,000 altogether and the whole population of the nation are concerned, in the fact that certain State Department employees have been dismissed without ever having been informed of the charges against them?"

There are four schools of thought.

One school, exemplified by some of the top men in the State Department, insists there is no danger that such summary procedure will ever affect the completely innocent.

A second, exemplified by many of the lesser people in the Department, is that a witch hunt is on and that it behooves them to keep quiet least State Department investigators' ears be listening. (One man who left government service after years of work in two departments told this reporter: "I have talked to at least twenty State Department people

in the past few days. They are bitter, upset and scared." This reporter and others in the Washington bureau of the New York Herald Tribune have talked to many more people in the department. All agree with the words "bitter, upset and scared.")

A third is that "so, what?" school—a very small one—which argues that it doesn't make much difference to the mass if a few innocent individuals get hurt, and that suspicion is as good grounds for dismissal as is proof.

The fourth school is perhaps best represented by editorial writers in three Washington newspapers who are demanding, with increasing firmness, that suspicion is not enough and, in the demanding, are strongly criticizing either President Truman or Secretary of State George C. Marshall or both.

Representative opinions from all four schools will be presented here in the form of excerpts from statements, letters or editorials.

A large part of the comment resulted from the publication in last Sunday's New York Herald Tribune of the case history of the investigation and dismissal of a State Department employee who can be described merely as Mr. Blank.

A large part of the comment will be news to President Truman and Secretary Marshall.

Samples of Thinking

Here are samples of the thinking of the schools represented:

School No. 1 (The "no danger" school.)—Secretary Marshall represented this. He acknowledged that eleven employees dismissed had no "true hearing." He said they could not be given the charges because the charges were based on "highly classified material" not under the department's control. He left it doubtful that they could even learn the charges, even on appeal to the new loyalty review boards or the Civil Service Commission.

School No. 2 (The "we're scared" school.—Two letters typical of many received as a result of the Mr. Blank article show some of the mental turmoil.

First letter: "There's a lot more hidden, judging by what I observed in the last year—my last with the government. I saw but few of the 'loyalty investigation' files, but I saw the effects. In agencies covering the country, the subordinate officials who always did the best jobs were the ones terrorized. Terrorized by sudden questioning, to them inexplicable, by two suddenly appearing agents demanding to know: 'Who was with you at that meeting at ——— Street on the afternoon of Aug. 19, 1942? We know you were there. We took your car number.' The victim later drove to that address, which he had never heard of before, and tried to ascertain who lived there. Later I read the long dossier. Since the agency cleared the man, the only inference is that a lot of fabrication went into that case. There has been so much of it that I began to wonder what newspaper men might begin to lift the lid. As you know, fifty years ago France was torn by a social conflict between the powers of government, including generals, and the rights of the governed. The implement then was hysterical anti-Semitism, just as it is now hysterical anti-Communism, and, as now, heightened by the fear of "Military machinations of a foreign power.'"

428 **Scribner Exhibit No. 3**

The Washington Post

Sunday, August 22, 1948

Matter of Fact

WE DON'T WANT 'LOYAL' NUMSKULLS

By Joseph and Stewart Alsop

There is not the slightest doubt that in these times the American Government must have the right to protect itself from attacks from within. Recent reports in this space on the loyalty case of "Mrs. Ann Smith" illustrate how stupidly this right can be abused. Yet the immensely delicate and difficult problem of national security exists, and it must somehow be solved.

No sensible man believes that J. Parnell Thomas' headline hunts can solve it. And anyone who believes that the solution is to be found in the present loyalty program should consider certain questions which the conduct of the loyalty program has posed.

First, there is the whole troubling question of guilt by association. Obviously, a man who has constantly associated with Communists and promoted Communist fronts should not have access to state secrets. But how far should this principle be carried?

The Banker's Blot

Take the recent case of a State Department employe. He was charged with having associated with 10 persons, all presumably suspect. He had never heard of five of them, and had had only the most casual contacts with four. But he had known one of the 10 intimately for several years.

This man was a banker, and stood high in the banking community, a community not conspicuous for its radical tendencies. The State Department man could only defend himself by defending the banker, and neither he nor the banker had any notion why the banker was suspect.

It finally developed that the banker had lived briefly in Albuquerque, N. Mex., several years before, and that an anonymous landlady had reported to the FBI that he kept Communist literature in the basement. On further inquiry, it was established that the Communist literature consisted of accumulated copies of the New Republic which the banker had discarded.

This sort of thing is making the loyalty program a pretty sour joke. Moreover, the case of the State Department man is typical in that in the great majority of cases of guilt by association, at least half the supposed associates are wholly unknown to the accused.

Second, it seems obvious enough that an intellectual pro-Communist, who accepts unhesitatingly the Communist dogma, should hold no sensitive position—this was the sort of individual who figured conspicuously in the Canadian spy case. But again, how far should this principle be carried?

Here are a few verbatim quotes from recent loyalty hearings: "What type of books did your associates have—any political or social economy?" "What kind of books, by title, did you purchase, what kind of literature?" "How many copies of Howard Fast's novels have you read?" "Do you read the newspaper PM?" "Have you a book by John Reed?"

Restricted to Dolts

All government employees know that such questions are asked in loyalty cases, and the assumption that any kind of intellectual or political curiosity provides grounds for suspicion is inevitable. If this country wants a Government service in which ignorance is at a premium, it will doubtless get what it deserves.

Third, does it really matter in America whether a man's maternal grandparents came over from Poland, or whether all his ancestors landed decorously on Plymouth Rock? There have been countless instances when, during loyalty hearings, individuals have been asked where their parents and grandparents were born. An entirely American re-

sponse would be that it was none of the loyalty board's damn business where a man's forebears came from.

Finally, there is the question of confrontation. Take the case of a man who has one item of "derogatory information" in his dossier. His file notes that FBI source X-32 has said that the accused is known to have attended a meeting of high Communist leaders in Seattle. The accused man hotly denies it. The loyalty board has no way whatsoever of knowing whether X-32 or the accused man is lying, and the board knows nothing at all about X-32.

It is the FBI position that to allow those charged to confront their accusers might compromise FBI sources. This seems logical enough. It is also the FBI position that FBI agents should not be allowed to make estimates of the trustworthiness of their sources, and this, too, seems logical. Yet surely loyalty boards which must decide cases certain to affect the whole future of Government employes should know the identity of the sources of their information. They should also, in case of necessity, be able to confront and cross-question such sources in secret.

Obviously, there is no easy solution to the problem of national security. But a government of drones and boneheads and toadies hardly contributes to national security. And if the sort of thing outlined above is allowed to continue indefinitely, that is the kind of government we shall get.

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429 **Scribner Exhibit No. 4**

The New York Times
August 18, 1949

SCIENTISTS SCORE ORDER ON LOYALTY

Association Attacks Concept of Imputing to an Employe Beliefs of Associates

Washington, Aug. 18, 1949 (AP)—The American Association for the Advancement of Science, the world's largest general organization of scientists, today assailed President

Truman's loyalty order affecting Federal employes as "basically objectionable."

The organization also strongly criticized the "security clearance" programs of the National Military Establishment and the Atomic Energy Commission as they affect scientists.

In a report published in the association's weekly journal, "Science," the group noted that Mr. Truman's loyalty order provides that no person shall be employed in a Federal post "if he is believed to be disloyal" to the United States Government.

"No one doubts the importance of faithful discharge of duty by public officials," the report said. "No one questions the propriety of the Government's demanding that its employes be loyal to their jobs and to the democratic institutions they serve.

"The loyalty order is, however, basically objectionable because it seeks to determine the employe's loyalty by inquiring into his supposed thoughts and attitudes, which are established in large part by imputing to him the beliefs of his associates.

Major Changes Sought

"If the loyalty order is to be retained a drastic revision is essential. Instead of focusing on an employe's associations, it should focus on his behavior in overt acts. Legislation already on the statute books amply protects the Federal service against retention of employes who advocate overthrow of the Government."

The association said the Military Establishment's program allowed appeal only to military "tribunal" when a civilian scientist's clearance is disapproved, and it added:

"Such subjection of the destinies of civilians to military tribunals is contrary to national tradition."

Of the AEC's program, the association declared that "work in that field [atomic energy] will be shunned by men of ability and pride if they are constantly treated as objects of suspicion and possible calumny."

The statements were contained in a report drafted by the association's "special committee on civil liberties of scientists." Howard Meyerhoft, secretary of the association, said the report had been ratified by the governing council of the organization, which represents 24,000 members in 211 affiliated scientific organizations.

Exaggeration Is Charged

The report said the Atomic Commission "has recently manifested a tendency to require security clearance not only for those scientists who themselves have access to restricted data, but also for their fellow-scientists with whom they may have personal contact."

"This apparently reflects a yielding to uninformed or sensationalist legislators and others who tend to exaggerate the problem of "keeping our atomic secrets," the report said. "So far as disclosures of evidence reveal, the problem of faithless scientific personnel in this country appears to be markedly less grave than the public has been led to suppose."

In another phase of its report, the committee asserted that "secrecy is damaging to both science and democracy," and added that it endorsed the 1947 report of President Truman's scientific research board which said in part:

"* * * Security regulations * * * should be applied only when strictly necessary and then limited to specific instruments, machines or processes. They should not attempt to cover basic principles of fundamental knowledge."

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430 **Scribner Exhibit No. 5**

Washington Post: Tuesday, April 1, 1947

THE FEDERAL DIARY

By Jerry Kluttz

Loyalty Order Used As Blackjack for Jobs

LOYALTY? An attempt is being made by the unprincipled and the unscrupulous to use the President's loyalty

order as a blackjack to get and keep Federal jobs. This is the sort of thing that's happening:

INCIDENT 1: A job was open in Commerce. The division chief talked with an applicant who wanted to transfer from a dying agency. The applicant appeared qualified and the official told him to return in a few days. Meantime, the chief checked the employer of the applicant, and he got this answer:

"I couldn't possibly recommend that person; he has broken every rule in the books, and if this agency wasn't going to fold up soon I would be compelled to fire him."

When the applicant returned to Commerce, he was told by the division chief that no job was available as it had been decided to abolish the vacant position. The crestfallen applicant went away. But it wasn't long before he returned to the outer office to cry out to several staff members—words he knew would get to the chief promptly:

"Your boss lied to me; he said he didn't have a job open here, and I know he does have. Now I'm going to tell you something—your boss is a Communist, and it's like every Communist to lie, lie, and lie. Unless I get a call damn soon from your boss to tell me that the job here is mine, I'm going to report him to both the House Committee on Un-American Activities and the American Legion and he'll be investigated out of his job."

Many a chief would have weakened under the circumstances. But to his everlasting credit, the Commerce official stood by his guns. He was reported, however, as both a Communist and anti-veteran by the applicant. The official a veteran himself, happened to be acquainted with people in both groups who knew the charges were screwy—but a lot of other loyal and able officials aren't so fortunate.

INCIDENT TWO took place at the State Department. The person involved was given a 90-day temporary assignment which he tried to get converted into a permanent job. As the 90 days neared an end, the employe was told his job was done, and besides, the department didn't have the money to keep him. But the employe wouldn't take no for an answer, and he launched this counterattack:

"I don't like the tone of the reports that are being written in this office," he began, "they are obviously slanted in favor of Russia, and they are written by people who are sympathetic with the Reds. I've been debating," he said, "whether to take this condition to some of my friends in Congress."

Being something of a diplomat, the temporary employe dropped the hint that he could see the reports as fair and objective if his temporary assignment was made permanent.

P.S.: I don't know the final chapter in this story—other than the threats frightened the entire office which merely boils down reports that come into the department the world over.

INCIDENT 3 covers a score or more of agencies. An organization, generally respected, is using a blackjack to run out Government people it doesn't like. So it's using what it believes is an expedient method by calling these people Communists.

The outfit works like this: One of its representatives calls on the department head to give him a list of employes in his agency which it claims are Communists. The demand is made that either the people be fired immediately, or the organization will get a congressional committee to investigate.

CONCLUSION: All this should be a warning to congressional committees and individual members of Congress that they will turn over Government to the crackpots if they listen and follow through on every Communist complaint made to them. In each of the incidents cited above, the cooperation of Congress, or even a single member, is all important to carry out their aims—and this cooperation should never be given without supporting facts.

Fully half a dozen congressional committees are investigating some phase of employe loyalty. What satisfies one congressional committee is objected to by another. The agencies are in a spot where they can't win.

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431 **Scribner Exhibit No. 6**

The Washington Star
November, 1949

OUTDATED RIGHT OF PRIVACY

Loyalty Checks Seen Making Business Of Citizen That of Government, Too

By Thomas L. Stokes

The times are out of joint for some of us around here of another generation who were raised in the tradition, and crusaded for it, that American citizens are entitled to privacy of their opinions and beliefs and could think and say what they pleased without being molested or spied upon or subjected to eavesdropping by minions of the law.

But it's a new world, not a brave new world, nor even the more comfortable world before our two global wars and their so-called "ideological" conflicts, but a world of fear and distrust. We'll probably have to get used to it and keep our mouths shut, but we don't have to like it.

These observations, which are philosophically resigned, are provoked by two recent developments here showing the temper of our times.

One is the movement for a permanent Federal loyalty program to pass upon Government employes. It started over in the Pentagon where our military brass throws its weight around as if the war still were on and now has the approval of Seth Richardson, chairman of the Loyalty Review Board appointed by the President, which has about finished its job of combing through the nearly 3,000,000 Government employes in its search for "disloyalty."

Wire Tapping Approved

The other is Attorney General McGrath's acquiescence, after a review of FBI wire tapping methods and procedures, to continue wire tapping. It is known that the Attorney General, soon after he took office, was inclined

to favor ending this practice, though he reserved final opinion until the review which he now has made.

Wire tapping, as now practiced, is presumably restricted and circumscribed. It can only be done after approval of the Attorney General in each specific case and is supposed to be confined to cases of espionage, sabotage and kidnapping under a rule of thumb laid down by former Attorney General Francis Biddle.

It came back into use for war purposes and was approved by the late President Roosevelt. The war is over. But the present Attorney General bases his certification for continuance on "the emergency which still prevails and the necessity of protecting the national security." That obviously means the so-called "cold war" which, of course, may continue for some time. Arnold Toynbee, the famous English historian, figures perhaps half a century.

Evidence obtained by wire tapping is not admissible in courts under a Supreme Court decision which was an issue in the Judith Coplon-Valentin Gubitchev trial in New York where it was revealed that the FBI did lots of wire tapping, including telephone conversations between counsel and client.

FBI Does Investigative Work

Making the loyalty network permanent is involved in a pattern with the FBI and its activities. The FBI does the investigative work for the loyalty board. *Together they constitute a Federal super-police system which seemingly is to go on in our Government. Some of the things that have leaked out of the loyalty board, the prying into private lives, opinions, political activity and reading habits, indicate the danger of abuses in such a system under permanent status, especially with the inadequate legal protections for any one caught up in it, no matter how innocently.*

There is no way to turn the light on it, as there is no way to find out how carefully the FBI uses the wire tapping technique. Such operations are all secret and newspapers have virtually no way of keeping on them that check which is so essential in a democracy.

The exhaustive inquiry into nearly 3,000,000 Government employes found only a handful of "loyalty" risks or, in other words, the Government service was, according to the FBI, 99.6 per cent pure, which seems pretty good. Why could not the ordinary procedures for checking Government personnel, including that of the Civil Service Commission, serve adequately in peace time, as they did for so many years? The commission has ample powers.

But that is perhaps just an oldfashioned idea that takes too little account of the strange fears abroad in the world today which have had a slowly deteriorating influence on American democracy as we of another generation knew it.

Please forgive us old fogies. We'll try to keep our mouths shut and our powder dry.

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432 **Scribner Exhibit No. 7**

WASHINGTON CALLING

By Marquis Childs

Heresy Hunt

To carry out the European recovery program will call for the very best brains in this country. That is one fact about which no one can possibly disagree.

It calls for economic as well as political specialists. Practical men with business experience will be called upon. There will be need, too, for those with academic and theoretical training, familiar with the trend of the long period.

This is part of the responsibility that has fallen on the United States. It goes along with the greatest accretion of economic, industrial and technological power the world has ever seen. We are only just beginning to realize what that responsibility means.

In the light of that responsibility and the demand it is certain to make on our brains and our skills, we cannot afford the kind of witch-hunting that has created something like a crisis in Government. A way must be found to resolve the suspicion and uncertainty which beclond Government service today.

Good men, men with independent minds, will not come into Government service under such circumstances. The financial sacrifice is, in most cases, too great to expect that the citizen will subject himself to having his conscience and his thoughts combed for possible heresy.

The cases that come immediately to mind are those of the 11 State Department employes dismissed because they were believed to be disloyal or because they were "bad security risks." Even if Congress eventually puts the administration of the European Recovery Program in a new agency, the State Department is certain to need able new recruits.

Yet employes of the department are subject to dismissal without being given an opportunity to know the cause. Bert Andrews of the *New York Herald Tribune* performed an important service in presenting one of these cases in detail, protecting, of course, the identity of the individual involved.

The documents in that case showed how tenuous were the grounds for the man's dismissal. He was shadowed for eight months by the FBI. Yet what they found, insofar as it was revealed by the questions asked of the individual, was vague and shadowy. Most of the questions dealt with associates whom he had seen at infrequent intervals.

In June of 1945, five men and one woman were taken in an FBI raid. Two of the men were State Department employes and one a naval officer whose loyalty had never hitherto been questioned They were stripped and treated like common criminals.

The charges against the three proved baseless. A grand jury subsequently cleared them for lack of evidence. The damage of publicity had, of course, seriously harmed them and there was no way in which they could be compensated for this damage.

But at least they were cleared. The public could know that, after due legal process, they were found to be without guilt.

The recent loyalty dismissals were harsher and more cruel, particularly since potential employers are told that the dismissed men were found to be "bad security risks." The State Department permitted three of them to "resign without prejudice," and now has granted the same permission to seven others because, through a technicality, their cases do not come under the jurisdiction of the recently appointed Loyalty Review Board.

The department states that it is taking steps to insure that, in the future, its employes will have the right to appeal to the Loyalty Review Board. However, review by the 20-man board is bound to be slow and cumbersome. Delays will work hardships on individuals and will impede the whole process of Government.

The heresy hunt has already had that effect. Government agencies seeking new employes for specialized jobs find that getting them cleared is an interminable business.

One agency recently sought to employ a young economist. He had a good combat record in World War II, with several citations for bravery under fire. But the report from the Civil Service Commission cast doubt on him because five years before the war, when he was just out of college, he was "in association" with the "Communist-dominated" American Civil Liberties Union. The American Mission to Greece also has been hampered in assembling a suitable staff by the cumbersome security machinery in the State Department.

The whole thing can be put simply. We will not be able to do the job that is ours in the world today if we do not cure ourselves of the current case of jitters. Those who are exploiting it for political purposes are playing directly into the hands of the Communists who would isolate America. It is long past time to apply plain common sense.

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433 **Scribner Exhibit No. 8**

Washington Post December 30, 1947

FLAXER HITS LOYALTY TEST DIRECTIVES

Abram Flaxer, president of the CIO United Public Workers, last night charged that the rules issued Saturday by the Loyalty Review Board are "mere window dressing" for police state procedures.

"It is obvious," he said in a statement, "that a facade of sham hearings and procedures have been erected to hide the real situation—that a police agency, the Federal Bureau of Investigation—now has sole and exclusive authority to render judgment on the loyalty of Government employes.

"The public had been led to believe the appointment of this board would result in the establishment of procedures guaranteeing Government employes the basic civil rights all Americans have enjoyed under our Constitution . . . The board has done nothing to allay the just suspicions which had previously been expressed . . .

"Of what use are three hearings or appeals if the accused is denied the right to confront the witnesses against him and deprived of the right of cross-examining such witnesses? . . .

"The hearings and appeals boards are in the same position as a jury in a murder trial that has been instructed to find the accused guilty on the basis of nothing more substantial than a secret report from the chief of police saying that he has information as to the guilt of the accused from an anonymous witness whose identity cannot be disclosed. . . ."

The New York Times
December 29, 1947

FORTAS CRITICIZES LOYALTY METHODS

Special to The New York Times

Washington, Dec. 28—Procedures for testing the loyalty of Government employes announced yesterday by the new Loyalty Review Board drew the criticism tonight that they raised "serious problems" in the safeguarding of constitutional liberties.

Abe Fortas, former Under-Secretary of Interior, predicted that under the board's rules the right of an accused employe to be accompanied by his lawyer when appearing before the board would be "largely empty."

Mr. Fortas is one of three attorneys and former high officeholders who represented six State Department employes when they were dismissed for security reasons last summer.

"It is doubtful if a lawyer can be of very much help to a person accused of disloyalty if he is to be denied the right to confront his accusers, or the opportunity to cross-examine witnesses," Mr. Fortas commented. He also charged that the board's decision not to disclose to the accused the sources of its evidence was in violation of the Bill of Rights.

Mr. Fortas attacked particularly the board's rule that accused persons would not be permitted at any time to inspect any report made against him by the Federal Bureau of Investigation, which will do virtually all the investigative work in the Government's unprecedented loyalty program.

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434 Filed January 12, 1951

Motion to Strike Certain Documents Filed in Support of Motion to Dismiss

The United States moves to strike the following documents filed herein in support of the motion of the defendant

for dismissal of the indictment and for other appropriate relief:

Affidavit of Albert J. Fitzgerald
Affidavit of Julius Emspak
All Emspak Exhibits (1-13 inclusive)

The ground for this motion to strike is that the material referred to is not appropriate to be considered in connection with pre-trial motions; is not part of the record; and is not subject to judicial notice.

GEORGE MORRIS FAY,
United States Attorney

CHARLES B. MURRAY,
Assistant United States Attorney

435 NOTICE

To Messrs. Rosenberg and Scribner
Attorneys for Defendant

Please take notice that the foregoing motion to strike will be called to the attention of the Court at the time of the hearing on the motion of the defendant to dismiss the indictment and for other appropriate relief.

CHARLES B. MURRAY,
Assistant United States Attorney

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436 Filed January 19, 1951

Order

Upon consideration of the Government's motion to strike the affidavit of Albert J. Fitzgerald, the affidavit of Julius Emspak, and Exhibits Nos. One to Thirteen, inclusive, and upon argument of counsel, it is by the Court, this 19th day of January, 1951,

ORDERED that the above-named affidavits and exhibits be and the same are hereby stricken, for the reasons that said affidavits and exhibits have no probative value or evidentiary force, are immaterial to a consideration of the motions before the Court, and are not in due and proper form. The Court will not go beyond the allegations of the indictment and the pending motions to consider evidence which should be properly raised at the trial of the general issue; therefore, the motion to strike is hereby granted. Objections thereto are noted on behalf of the defendant.

JAMES R. KIRKLAND,
Judge

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437 Filed January 26, 1951

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA

v.

JULIUS EMSPAK ..... Criminal No. 1742-50
THOMAS J. FITZPATRICK ..... Criminal No. 1743-50
THOMAS QUINN ..... Criminal No. 1744-50
JAMES J. MATLES ..... Criminal No. 1745-50
PHILIP BART ..... Criminal No. 1746-50
FRANK PANZINO ..... Criminal No. 1747-50
TALMADGE RALEY ..... Criminal No. 1748-50
PASQUALE L. J. BRANCA ..... Criminal No. 1749-50
CLARENCE HISKEY ..... Criminal No. 1750-50
ESTHER TICE ..... Criminal No. 1751-50
FRANK HASHMALL ..... Criminal No. 1752-50
LOUISE BERMAN ..... Criminal No. 1753-50
STEVE NELSON ..... Criminal No. 1796-50
GIOVANNI R. LOMANITZ ..... Criminal No. 1797-50
MARCEL SCHERER ..... Criminal No. 1799-50
DAVID J. BOHM ..... Criminal No. 1824-50

Order and Opinion

The above defendant was one of sixteen indicted by the Grand Jury of this Court for contempt of Congress (2 U. S. Code 192) for failure to answer questions before a duly created sub-committee of the Committee on Un-American Activities of the House of Representatives, pursuant to Section 121 of the Legislative Re-organization Act of 1946, sub-section (q) (2), and House Resolution 5 of the 81st Congress.

438 The defendants have filed motions to dismiss and alternative motions in the several cases for a bill of particulars and to have a hearing to show bias and prejudice on the part of members of the Grand Jury which returned these indictments.

Upon consideration of the argument of counsel, the indictment, and the several motions and memoranda filed herein, it is by the Court, this 26th day of January, 1951.

ADJUDGED, ORDERED and DECREED as follows:

(1) Section 192, Title 2, of the United States Code is constitutional, and does not exceed the bounds of the constitutional power of Congress to investigate in aid of its legislative jurisdiction; nor is it vague and indefinite; nor does it violate the First Amendment to the Constitution of the United States. *Barsky* v. *United States*, (1948) 83 U. S. App. D. C. 127, cert. den. 334 U. S. 843; *United States* v. *Josephson*, (1947) 165 F.(2d) 82, cert. den. 333 U. S. 838, rehear. den. 333 U. S. 858; *Eisler* v. *United States*, (1948) 83 U. S. App. D. C. 315, 170 F.(2d) 273, cert. den. 333 U. S. 838; *Morford* v. *United States*, (1950) 339 U. S. 258, rehear. (1950) —— U. S. App. D. C. ——, 184 F.(2d) 864, cert. den. (Nov. 6, 1950) 71 S. Ct. 130; *Trumbo* v. *United States*, *Lawson* v. *United States*, (1949) 85 U. S. App. D. C. 167, 176 F.(2d) 49, cert. den. (1950) 339 U. S. 934.

(2) Section 121 of the Legislative Re-Organization Act of 1946, sub-section (q) (2), and House Resolution 5 of the 81st Congress creating the House Committee on Un-Ameri-

can Activities, is constitutional. *Barsky* v. *U. S.*; *U. S.* v. *Josephson*; *Eisler* v. *U. S.*; *Morford* v. *U. S.*; *Trumbo* v. *U. S.*, and *Lawson* v. *U. S.*, *supra.*

439 (3) The above indictment does charge an offense under the laws of the United States. It is a good example of a "plain, concise and definite written statement of the essential facts constituting the offense charged." (F. R. C. P., Rule 7(c).) It should enable the defendant to understand the nature of the accusation; it affords adequate notice of the offense with which defendant is charged; it gives defendant the information needed to prepare his defense, and makes it possible for him to plead a judgment in bar of another prosecution for the same offense, and is accordingly legally sufficient. *U. S.* v. *Josephson, supra.*

(4) In the absence of a showing of actual bias on the part of the members of the Grand Jury due to their employment in the Government of the United States or the Government of the District of Columbia, the indictment is not void. *United States* v. *Wood,* (1936) 299 U.S. 123; *Frazier* v. *United States,* (1948) 335 U.S. 497; *Dennis* v. *United States,* (1950) 339 U. S. 162. In a particular case Government employees serving as Grand or Petit Jurors might be barred for implied bias when circumstances are properly brought to the Court's attention which convince the Court that Government employees would not be suitable jurors. No such circumstances are present under the force of the present motion to dismiss, nor were any such circumstances indicated in defendant's proffer of proof in support of the motion for a hearing on the qualifications of the Grand Jurors.

(5) No showing having been made to require the Government to file a bill of particulars, that portion of the motion seeking the same will be denied.

(6) The Court reserves for a further opinion on the force of the motion to dismiss as to whether the indictments charge one or a multiple series of attempts, and

440 also upon the question of whether a witness properly before a committee of Congress who claims his immunity under the provisions of the Fifth Amendment to the Constitution can receive judicial punishment under indictment for contempt of Congress.

It has been suggested that the Court take judicial notice of the proceedings before Congress. However, since the indictment is under attack by a motion to dismiss, the Court will not go outside the record at this time to judicially notice such matters.

All other matters not heretofore expressly ruled upon or reserved for further consideration which have been raised in the several motions to dismiss are accordingly overruled.

JAMES R. KIRKLAND
Judge

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441 Filed January 31, 1951

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA

v.

JULIUS EMSPAK ..... Criminal No. 1742-50
THOMAS J. FITZPATRICK ..... Criminal No. 1743-50
THOMAS QUINN ..... Criminal No. 1744-50
JAMES J. MATLES ..... Criminal No. 1745-50
PHILIP BART ..... Criminal No. 1746-50
FRANK PANZINO ..... Criminal No. 1747-50
TALMADGE RALEY ..... Criminal No. 1748-50
PASQUALE L. J. BRANCA ..... Criminal No. 1749-50
CLARENCE HISKEY ..... Criminal No. 1750-50
ESTHER TICE ..... Criminal No. 1751-50
FRANK HASHMALL ..... Criminal No. 1752-50
LOUISE BERMAN ..... Criminal No. 1753-50
STEVE NELSON ..... Criminal No. 1796-50

GIOVANNI R. LOMANITZ .....Criminal No. 1797-50
MARCEL SCHERER .....Criminal No. 1799-50
DAVID J. BOHM .....Criminal No. 1824-50
FREDERICK V. FIELD .....Criminal No. 1785-50
PHILIP J. JAFFE .....Criminal No. 1786-50
WILLIAM L. PATTERSON .....Criminal No. 1787-50

Opinion

The first sixteen above-named defendants were indicted by the Grand Jury of this Court for contempt of Congress (2 U. S. Code 192) for failure to answer questions before a duly created sub-committee of the Committee on Un-American Activities of the House of Representatives, pursuant to Section 121 of the Legislative Re-organization Act of 1946, sub-section (q) (2), and House Resolution 5 of the 81st Congress; the last three above-named defendants
442 were indicted by the Grand Jury of this Court for contempt of Congress for failure to answer questions before a duly created sub-committee of the Committee on Foreign Relations of the United States Senate which was conducting hearings pursuant to Senate Resolution 231, 81st Congress, 2nd Session. Title 2, Section 192, of the United States Code provides:

> "Every person who having been summoned as a witness by the authority of either House of Congress, to give testimony or to produce papers upon any matter under inquiry before either House, or any committee of either House of Congress, *willfully makes default*, or who, *having appeared, refuses to answer* any question pertinent to the question under inquiry, shall be deemed guilty of a misdemeanor * * *." (Emphasis supplied)

Defendants herein have filed motions to dismiss the indictments pursuant to Rule 12 of the Federal Rules of Criminal Procedure.

Each indictment contains several counts ranging up to as high as 68 counts in one case. Counsel for defendants urge that these indictments are duplicitous in that they

charge one crime in several counts and also that they put the defendant in jeopardy of being convicted and punished more than once for the same act. The Government counsel argues that since the statute, 2 U. S. C. 192, *supra,* defines the crime as the refusal to answer "any question", then each refusal to answer a different question would be a separate violation.

In *Upshaw* v. *U. S.,* (1946) 157 F. (2d) 716, the Court set out the test for determining the identity of offenses as follows:

> "And the generally recognized test for determining whether the offenses charged in two or more indictments or in different counts of the same indictment are identical or separate is whether the same proof would sustain a conviction under both or whether each requires proof of one or more facts which is not required of the others. *Blockburger* v. *U. S.,* 284 U. S. 299; *Gilmore* v. *U. S.,* 124 F. (2d) 537." Ibid, p. 717.

As contended by the United States in this pro-
443 ceeding, if a witness refuses to answer any question he has violated the statute. Clearly it is necessary to prove a different fact to sustain the charge for each different question. Applying the above test to the indictments in these cases, the refusal to answer each question must be charged in a separate count since the same proof would not sustain a conviction under each count, and an indictment charging more than one offense in any one count is as defective as an indictment charging a single offense in multiple counts. In several recent cases involving contempt, indictments setting forth the several questions which the defendants refused to answer were held valid. *Alexander* v. *U. S.,* (1950) 181 F. (2d) 480; *Doran* v. *U. S.,* (1950) 181 F. (2d) 489; *Kasinowitz* v. *U. S.,* (1950) 181 F. (2d) 633; *Trumbo* v. *U. S.,* (1949) 85 U. S. App. D. C. 167.

Counsel for defendants go a step further, however, and urge that a conviction on each count would allow the Court to incarcerate some of these defendants for the balance of their lives. Although the problem of the sentence after

conviction is not before the Court at this time, it does appear that a short discussion of this problem as collateral to the allegation of duplicity may be helpful.

Diligent effort on the part of counsel has produced a series of cases which are pertinent here. One of the earliest cases to consider this precise problem was *Maxwell* v. *Rives*, (1876) 11 Nevada 213. In this case the defendant was held in contempt of court for refusing to answer a number of questions. In considering the trial court's action in imposing a separate penalty for each refusal the court said:

> "A penal statute must be strictly construed. Upon that principle at least, if not upon more liberal principles of construction, the mere refusal of a witness to testify on the same trial of the same issue cannot be deemed more than one contempt, no matter how many questions he may refuse to answer * * * The dis-
> 444 trict judge erred in finding that each separate refusal to answer a question was a distinct contempt * * *." Ibid, p. 221.

The Court there cited *People ex rel Tweed* v. *Liscomb*, (1875) 60 N. Y. 559, in which opinion may be found a collection of English and early American cases which involved multiple penalties for a single act.

Recently the United States District Court for the District of Hawaii considered indictments identical in substance to those before the Court now, and that court held in respect to the multiple count indictments as follows:

> "As to objections to the number of counts, the Court is of the opinion that the Government has the right to frame each refusal to answer in a separate count. Rule 8 of the Federal Rules of Criminal Procedure gives that right. However, as the questions appear to be directed all to one subject of inquiry and the answers were simultaneous during the proceedings, and continuous acts, the indictments therefore charge only one alleged offense. *Kerr* v. *Squier*, 151 F. (2d) 308 (Ninth Circuit); *Price* v. *U. S.*, 150 F. (2d) 283-285 (Fifth Circuit); *Upshaw* v. *U. S.*, 157 F. (2d) 716 (Tenth Circuit) strongly indicate that no matter how many refusals to

answer may occur in an examination such as is alleged, the maximum sentence that could be imposed pursuant to the statute involved, Section 192, Title 2, U. S. Code, would be punishment for not more than one refusal." *U. S.* v. *Yukio Abe*, Crim. No. 10,335 (Nov. 17, 1950).

Accordingly, the District Court of Hawaii refused to dismiss the indictments on the ground of duplicity, and deferred ruling on the motion to dismiss until after a trial on the general issue.

Two recent State cases, *Fawick Airflex Co.* v. *U.E.R. & M.W.A.*, (1950) 92 N. E.(2d) 436 (Ohio) and *People ex rel Amarante* v. *McDonnell*, (1950) 100 N. Y. S. (2d) 463, considered a charge of separate contempts for refusal to answer a series of questions. Both courts held that only one contempt was committed and the defendant could receive only the maximum penalty for one contempt after conviction. In the Fawick case, the court rationalized the problem as follows:

"As heretofore noted in this opinion, the appellant was found guilty of three separate acts of contempt based upon his refusal to answer three separate
445 questions.

It appears to the members of this court that the questions were of such character that they should be treated as an inquiry into but one single subject. The first question asked the witness directly was whether he was a member of the Communist Party. When he refused to answer, other questions were then asked, which, if answered in the affirmative, would have established an inference that he was such a member. In fact, the entire inquiry was directed toward the establishment of but one fact. The witness' refusal to answer the three questions under discussion constituted, in the opinion of the members of this court, but a single contempt, for the reason that they all had to do with the same subject matter."

The New York court considered the problem in the same light, saying:

"The question then presents itself as to whether or not by refusing to answer seven questions relating to

the same subject matter the relator was guilty of seven separate and distinct contempts. If this question be answered in the negative, then the County Judge acted in excess of the jurisdiction conferred upon him in sentencing the relator to a term in excess of the maximum provided by law for a criminal contempt.
The court is of the opinion that the relator committed but one contempt. To hold otherwise would enable a prosecutor to ask an unlimited number of questions concerning the same subject matter or even to ask the same question in various forms, with the net result that a witness might be incarcerated for the balance of his life."

The New York statute on contempt is the Judiciary Law Section 750, which reads:

"A court of record has power to punish for a criminal contempt a person guilty of either of the following acts, and no others:

* * * 5. Contumacious and unlawful refusal to be sworn; or, after being sworn, *to answer any legal* and proper interrogatory." (Emphasis supplied)

Title 2, U. S. Code 192, *supra*, uses the word "any" in the same sense as the New York statute, yet the indictment in the Amarante case was not held defective for duplicity. The court in these two cases obviously directed their concept of the singleness of the offense to the imposition of the penalty.

In *Trumbo* v. *U. S.*, *supra*, the indictment was in
446 two counts consisting of two separate questions which defendant had refused to answer. The court, at page 169, said, referring to two defendants, Lawson and Trumbo: "Both trials resulted in convictions and the imposition of the maximum sentence allowed by 2 U. S. C. 192 of one year and $1,000 fine". The court without discussing the problem obviously approved conviction under the two count indictment and also imposed a sentence of the maximum penalty for a single contempt. That decision is binding upon this Court, and it is also well supported as pointed out by the foregoing discussion.

The counts involved in the several indictments under consideration consist of questions which apparently on their face were directed to one single line of inquiry which was the specific phase of inquiry then being considered by the Committee. As noted previously, each question requires proof of a different fact; therefore, the questions must be set out in different counts. This being so, the indictments are not duplicitous. Proof which would sustain any single count will sustain a conviction for contempt as charged. The question of double jeopardy will arise only if a defendant is sentenced on more than one count. Since only one contempt is charged in each indictment, the rationale of the decisions discussed above would seem to limit the sentence to a maximum penalty for one contempt. The objection is academic and premature at this stage, however, but may be raised if a sentence for more than one refusal is imposed.

Counsel have also argued that the claim of protection against self-incrimination embodied in the Fifth Amendment entitles a witness before a Congressional committee to an immunity which will support a dismissal of an indictment charging violation of 2 U. S. C. 192 prior to a trial of the general issue. This contention raises a procedural question, the solution to which requires a consideration of the preliminary facts, which must be established as a matter of law to support the granting of such a
447 motion.

The necessity for the right of a legislature to conduct inquiries as an aid to the legislative process is more critical now than at any time in the history of the world. The complexities of our present economy, the attempts of modern statesmen to achieve international unity and the recurrence of the concept of a balance of power throughout the world render any single group of men incompetent to deal with the legislative process without the aid of detailed inquiries into the fields of prospective legislative control. Such responsibility as falls on the members of our legislatures, demands the authority to compel disclosures of per-

tinent information relative to the requirements of the law making process.

In the formation of the Constitution of the United States, the citizens of the several states were anxious that their individual liberties, so recently gained by the American Revolution and which they had protested to the imperial heads of England, should not be lost in the untried Federal Government which the Constitution established. Accordingly, the first ten amendments were voted at the outset of the ratification of the Constitution, and they apply strictly to the Federal Government. The Fifth Amendment declares:

> "No person shall be held to answer for a capital or otherwise infamous crime, unless on a presentment or indictment of a grand jury, except in cases arising in the land or naval forces, or in the militia when in actual service, in time of war or public danger; nor shall any person be subject for the same offense to be twice put in jeopardy of life or limb; *nor shall be compelled, in any criminal case, to be a witness against himself,* nor be deprived of life, liberty or property, without due process of law, nor shall private property be taken for public use without just compensation." (Emphasis supplied)

In the early stages of the development of the common law, a defendant in a criminal case was not permitted to testify nor be represented in court by counsel. When one further considers that the grand jurors were persons who had actual knowledge of commission of crimes in their locality and were assembled in advance of the king's justices, then moving in circuits, one can understand the reluctance of the American colonists to permit the Federal Government to compel a defendant in a criminal case to give testimony against himself. It was anciently established that no person should be compelled to give testimony against himself. This came about as orderly progression of the growth of criminal procedure as a part of the common law. However, it appears to be of a more re-

448

cent origin than the next point to be discussed insofar as the ratification of the Constitution was concerned.

Growing up with the development in the criminal law, but ancient by many years, was the proposition that there was an inherent right in Government to subpoena and inquirie of citizens concerning activities for which legislation was necessary. This information was then, as it is now, vital to the legislative process. The earliest instances of punishment visited by the House of Commons upon contumacious and prevaricating witnesses summoned before Parliamentary inquiries related to disputed elections. The earliest recorded instance appears in the year 1586. Later, in 1604, in Sir Francis Godwin's case, where Parliament was inquiring into election irregularities, it was stated: "Power given in that Case to send for an Officer, and to view and search any Record or other thing of that kind, which may help their Knowledge or Memory in this particular Service". On June 4, 1621, Randolph Davenport was imprisoned for misinforming a committee before whom he was called as a witness. There was a Parliamentary investigation in 1688 into the conduct of the war in Ireland. There also appears to have been legislative power as early as 1789 in the American colonies, and it was well entrenched when the Constitution was ratified. Undoubtedly the framers had its ancient origin in mind as it laid the framework of the American Federal Government.

These two streams of social control flowed parallel
449 to each other in their development through the centuries. This development has been the subject of careful study by many scholars, and is thoroughly discussed in Landis, *Constitutional Limitations on the Congressional Power of Investigation,* 40 Harvard Law Review 153 (1926). It is now well established that Congress has the power to compel pertinent disclosures. *McGrain* v. *Daugherty,* (1927) 273 U. S. 135; also that a Congressional inquiry may be as broad as the legislative purpose requires *Townsend* v. *United States,* (1938) 95 F.(2d) 352; and that

a legislative purpose will be presumed in authorizing a Congressional investigation. *In re Chapman,* (1897) 166 U. S. 661. The pertinency of the evidence is not determined by its probative value, and like the question of relevancy in a trial, it is a question of law; but the witness may be punished if he mistakes the law, since the issue of good faith is not involved. *Sinclair* v. *U. S.,* (1929) 279 U. S. 263. The witness of course must be properly before the committee either by reason of service of process or by voluntary appearance. The procedure before the committee is informal, but precedent has fully established the practice of informing a witness of his rights of immunity at the hearing. A claim of immunity under the Fifth Amendment is personal to the witness. *Brown* v. *Walker,* (1896) 161 U. S. 591.

If there has been any doubt that the Fifth Amendment applies to testimony before Congressional committees, it has been dispelled by many decisions, and in fact, was recognized by Congress itself in 1857 when it enacted an immunity statute, 11 Stat. 155, from which R. S. 859, codified in 18 U. S. C. 3486, stems. It provides:

> "*No testimony* given by a witness before either House, or before any committee of either House, or before any joint committee established by a joint or concurrent resolution of the two Houses of Congress, *shall be used as evidence in any criminal proceeding* against him in any court, except in a prosecution for perjury committed in giving such testimony. But an official paper or record produced by him is not within the said privilege." (Emphasis supplied)

The avowed purpose of that Act was to "enforce the attendance of witnesses * * * and to compel them to discover testimony". Congress thus sought to compel testimony which might be protected by the Fifth Amendment by granting the immunity of R. S. 859. To this day that section remains virtually as enacted as 18 U. S. C. 3486, untested by Court decision although relegated to a doubtful status by *U. S.* v. *Bryan,* (1950) 339 U. S. 323. In that case

the court considered 859 by analogy to R. S. 860, a statute identical in all material respects with R. S. 859, and which was considered in *Counselman* v. *Hitchcock*, (1892) 142 U. S. 547. The court in this latter case held that R. S. 860 was not an adequate substitute for the protection of the Fifth Amendment regarding self-incrimination. In *U. S.* v. *Bryan, supra,* Mr. Chief Justice Vinson, speaking for the majority of the Court, went beyond the issues involved to indicate that R. S. 859 is no more of a substitute than was R. S. 860. The Congress repealed R. S. 860 in 1910.

On the other hand, immunity statutes have been enacted in regard to administrative hearings which do afford an adequate substitute for the Fifth Amendment. In *U. S.* v. *Eisele,* (1943) 52 F. Supp. 105, decided by Judge Pine of this District Court, a prosecution was barred because of testimony given under the immunity of 15 U. S. C. 77v. (c). Similarly, in *Smith* v. *U. S.*, (1949) 337 U. S. 137, a prosecution was barred by the immunity of 49 U. S. C. 46. The two immunity statutes cited above contain the words "no person shall be prosecuted for or on account of any transaction, matter or thing, concerning which he may testify". This remission of responsibility for criminal acts met the absolute test of the constitutional provision against self-incrimination as early as *Brown* v. *Walker, supra,* and as recently as *Smith* v. *U. S., supra.* This type of im-
451 munity statute is clearly broader than the phrase, "no testimony given by a witness" which is used in R. S. 859. There is no doubt that Congress can elicit self-incriminating testimony from a witness provided the witness is offered, in exchange, an immunity from prosecution which is as broad as the Fifth Amendment.

An exhaustive review of cases which require the immunity statute to be as broad as the protection of the Fifth Amendment is contained in 118 A. L. R. 605. It should also be noted that the Fifth Amendment does not give immunity against a State prosecution, as it does against a Federal prosecution. *U. S.* v. *Murdock,* (1931) 284 U. S. 141.

Questions which do not, on their face, require incriminating answers necessitate placing the burden of proof on the witness to show he had substantial reason to believe they demand answers tending to incriminate him. *Counselman* v. *Hitchcock, supra; U. S.* v. *Rosen,* (1949) 174 F.(2d) 187, cert. den. 338 U. S. 851. Several recent cases have identified specific types of questions as per se calling for incriminating answers. *Alexander* v. *U. S., supra; Kasinowitz* v. *U. S., supra; Blau* v. *U. S.,* 19 Law Week 4062 (Dec. 11, 1950). The Alexander case points out that a question such as "Do you know John Doe?" while not necessarily calling for an incriminating answer, will be held as incriminatory in character upon a showing that any connection with John Doe will subject the witness to a criminal charge of any sort. In addition, the Court is required to take the question in its setting, including other questions asked of the witness. *U. S.* v. *Weisman,* (1940) 111 F. (2d) 260. The witness must specifically claim his privilege under the Fifth Amendment, not merely decline to answer the question. Arbitrary or fanciful claims of privilege, however, will not be sustained.

It is clear by now that numerous aspects of the proceedings must be proved to the Court to allow the Court
452 to intelligently decide the issues which may well resolve themselves into questions of law. For example, the use of newspaper clippings has been sanctioned as admissible to show a reasonable apprehension of incrimination (*Alexander* v. *U. S., supra; U. S.* v. *Weisman, supra*), yet this type of evidence must be received with caution. It will certainly not be noticed judicially but must be introduced subject to objections as to relevancy, authenticity and the usual objections to documentary evidence. On a pre-trial motion to dismiss, similar to the motions presented in the cases under consideration here, Judge Caffey of the United States District Court for the Southern District of New York ruled that the procedure in the resolution directing the certification of a case under 2 U. S. C. 192 to

the United States Attorney would not be considered on a motion to dismiss, but would be reserved as a matter of defense at the trial. His opinion is reported in *U. S.* v. *Josephson,* (1947) 74 F. Supp. 958, affirmed, in an opinion which did not discuss this point, 165 F.(2d) 82, cert. den. 333 U. S. 838. It should also be noted that the U. S. District Court for the District of Hawaii in the case of *U. S.* v. *Yukio Abe,* Crim. No. 10,335 (Nov. 17, 1950), took cognizance of these problems in deferring a ruling on a motion to dismiss identical to those presented here until the trial of the general issue. Nothing but confusion would result from trying these cases in a piecemeal manner. These several motions to dismiss may undoubtedly be raised with propriety during the course of the trial when there is sufficient evidence before the Court to show the incriminating characteristics of the answers as well as the proper claim of immunity. However, the Court is not in a position to resolve the issues as a question of law at the present stage of the proceedings, and the several motions to dismiss are accordingly overruled.

JAMES R. KIRKLAND
Judge

January 31, 1951

Filed February 21, 1950

453 UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA

v.

JULIUS EMSPAK

Criminal No. 1742-50

Waiver of Trial by Jury

Defendant Julius Emspak hereby waives trial by jury in the above entitled matter.

JULIUS EMSPAK

Assented to
CHARLES B. MURRAY
Asst. U. S. Atty.

Approved
F. DICKINSON LETTS
Judge

Dated: February 19, 1951

Filed February 26, 1951

454 UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA

v.

JULIUS EMSPAK

Criminal No. 1742-50

Motion for Judgment of Acquittal

Defendant moves for a judgment of acquittal on the entire indictment and on each separate count thereof on the grounds that

1. the charges in the indictment have not been proven beyond a reasonable doubt,

2. the evidence is insufficient to sustain a conviction of any offense or offenses charged therein,

3. there is no evidence that a valid sub-committee of the House Committee on Un-American Activities was duly appointed,

4. the evidence shows that defendant claimed his privilege against testifying under the Fifth Amendment.

By his attorneys

ALLAN R. ROSENBERG
DAVID SCRIBNER

February 26, 1951

Filed March 1, 1951

455 UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA

v.

JULIUS EMSPAK

Criminal No. 1742-50

Motion in Arrest of Judgment

Defendant moves the Court to arrest judgment herein on the ground that the indictment does not charge an offense; that the Court has no jurisdiction over the subject matter; that there was no duly created sub-Committee of the House Committee on Un-American Activities as alleged in the

indictment, and for all the reasons heretofore urged in Defendant's Motions to Dismiss.

By his Attorneys

DAVID SCRIBNER
ARTHUR KINOY
11 East 51st Street
New York 22, N. Y.

ALLAN R. ROSENBERG
1741 K Street
Washington, D. C.

Filed March 1, 1951

456 UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA

v.

JULIUS EMSPAK

Criminal No. 1742-50

Motion for New Trial

Defendant moves the Court to grant him a new trial, on the grounds,

1. The evidence fails to show beyond a reasonable doubt that he is guilty as charged in the indictment.

2. That there was no duly created sub-committee of the House Committee on Un-American Activities, as charged in the indictment.

3. That he duly asserted his privilege under the Fifth Amendment to the Constitution of the United States against testifying against himself.

4. And for all reasons previously urged in defendant's motions to dismiss, motion for judgment of acquittal, mo-

tion in arrest of judgment, all of which motions are hereby renewed.

By his Attorneys

David Scribner
Arthur Kinoy
11 East 51st Street
New York 22, N. Y.

Allan R. Rosenberg
1741 K Street
Washington, D. C.

Filed March 1, 1951

457 UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

United States of America

v.

Julius Emspak
Defendant

Criminal No. 1742-50

Charge Vio. 2-192 U.S.C.

Overruling of Motion for New Trial and Motion in Arrest of Judgment

On this 1st day of March, 1951, came the attorney of the United States; the defendant in proper person, and by his attorney, Allan Rosenberg, Esquire; whereupon the motion of the defendant for a new trial and in arrest of judgment,

coming on to be heard, after argument by counsel, each motion is by the Court OVERRULED.

By direction of

F. DICKINSON LETTS
Presiding Judge
Criminal Court No. 1

HARRY M. HULL
Clerk

By C. H. MILSTEAD
Deputy Clerk

Present:

United States Attorney

By WILLIAM HITZ
Assistant United States Attorney

ERNEST MARKWALTER
Official Reporter

Filed March 6, 1951

458 UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA DIVISION

UNITED STATES OF AMERICA

v.

JULIUS EMSPAK

No. 1742-50

Judgment and Commitment

On this 1st day of March, 1951 came the attorney for the government and the defendant appeared in person and by counsel, Allan Rosenberg, Esquire.

IT IS ADJUGED that the defendant has been convicted upon his plea of not guilty and a finding of guilty of the offense

of Vio. 2-192 U. S. Code as charged and the court having asked the defendant whether he has anything to say why judgment should not be pronounced, and no sufficient cause to the contrary being shown or appearing to the Court,

IT IS ADJUDGED that the defendant is guilty as charged and convicted.

IT IS ADJUDGED that the defendant is hereby committed to the custody of the Attorney General or his authorized representative for imprisonment for a period of Six (6) Months and to pay a fine of $500.00.

IT IS ORDERED that the Clerk deliver a certified copy of this judgment and commitment to the United States Marshal or other qualified officer and that the copy serve as the commitment of the defendant.

F. DICKINSON LETTS
United States District Judge.

(*Signed*) ..... (*By*) .....
Clerk. *Deputy Clerk.*

462 **Criminal Docket**

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

Parties

CASE CLOSED

UNITED STATES OF AMERICA

v.

JULIUS EMSPAK

Attorneys

U. S. ATTORNEY, ALLAN ROSENBERG and DAVID SCRIBNER, ARTHUR KINOY

G. J. No. Orig.

Criminal No. 1742-50

Charge: VIO. SEC. 192, TITLE 2, U. S. CODE
Bond. 1. $1500 Wm. P. Ryan

Date	Proceedings
1950 Nov. 20	Presentment and Indictment filed (68 counts)
22	Bond fixed by the Court at $1500.00. TAMM, J.
24	ARRAIGNED, Plea NOT GUILTY entered; 25 days, etc.
	Attorney Allan Rosenberg present, appearance entered, filed.
	MATTHEWS, J. Cert. filed 11/27/50
24	Recognizance $1500.00 taken with Wm. P. Ryan, surety, filed.
Dec. 19	Defendant's motion to dismiss indictment and for other appropriate Relief, and Points and Authorities in support thereof, filed.
	Affidavit of Albert J. Fitzgerald, filed.

Date	Proceedings
	Affidavit of David Scribner, filed. (2 affidavits filed)
	Affidavit of Julius Emspak, filed.
	Exhibits 1 thru 13, filed.
1951 Jan. 12	Motion to Strike Certain Documents filed in Support of Motion to Dismiss, filed.
	Memorandum of Authorities in Support of Government's Motion to Strike Certain Documents, filed.
	Memorandum of Authorities in Opposition to Motion to Dismiss Indictment and for Other Appropriate Relief, filed.
19	Defendant's supplemental affidavit in support of motion to dismiss indictment on the ground that the grand jury was illegally constituted and exhibits 1,2,3,4,5,6, 7,8, filed.
463	Contd. on Suppl. Page 1
1951 Jan. 19	Government's motion to strike certain documents filed in support of motion to dismiss granted.
	Order striking affidavits and exhibits filed. KIRKLAND, J.
	Motion to dismiss indictment argued and submitted.
	Supplemental affidavit in support of motion to dismiss indictment on the ground that the Grand Jury was illegally constituted, stricken. KIRKLAND, J.
	Attorneys Allan Rosenberg and David Scribner present.
22	Memorandum of Government supplementary to oral argument, filed.
26	Motions of defendant to dismiss indictment heretofore argued and submitted, Denied.

Date	Proceedings
	Order and Opinion, filed. KIRKLAND, J. (N)
31	Opinion re: Motion to dismiss, filed. KIRKLAND, J. (N)
Feb. 15	Stipulation, Attachment No. 1,2,3,4,5,6,7,8, 9, filed.
19	Appearance of Arthur Kinoy entered for defendant.
	Defendant waives right to trial by jury with consent of U. S. Attorney and approval of the Court; trial by the Court begun.
	Respited until 2-20-51.
	Attorneys Allan Rosenberg, David Scribner, Arthur Kinoy present.
	LETTS, J. Cert. filed.
20	Trial by the Court resumed; case taken under advisement;
	Finding respited to 2-26-51.
	Attorneys Allan Rosenberg, David Scribner, and Arthur Kinoy present.
	LETTS, J. Cert. filed.
23	Government's Reply Memorandum, filed.
26	FINDING of Court—GUILTY as indicted;
	Case referred to the Probation Officer of the Court;
	Defendant committed to District of Columbia Jail; Commitment issued.
	Defendant's supplementary memorandum, filed.
	Defendant's memorandum and Points and Authorities in support of motion for acquittal, filed.
	Attorneys David Scribner, Arthur Kinoy, Allan Rosenberg present.
	LETTS, J. Cert. filed.

Date		Proceedings
	26	Defendant's motion for judgment of acquittal, filed.
Mar.	1	Motion for New Trial and Motion in Arrest of Judgment, filed, argued and overruled. Attorney Allan Rosenberg present. LETTS, J. Cert. filed.
464		Contd. on Suppl. Page 2
1951 Mar.	1	SENTENCED to Imprisonment for a period of Six (6) months and to pay a fine of Five Hundred ($500.00) Dollars; Attorney Allan Rosenberg present. LETTS, J. Cert. filed.
	1	Notice of Appeal, filed. Clerk's Fee $5.00 paid.
	6	Judgment and Commitment of 3-1-51, filed. LETTS, J.
	13	Transcript of Proceedings, Feb. 19, 20, 26, 1951 and March 1, 1951, Pages 1 to 301, filed.
	16	Motion of defendant to transmit original records, filed. ORDER granting defendant's motion to transmit original records, filed. LETTS, J.
	16	Stipulation designating Record on Appeal, filed.
	20	Transcript of Proceedings, Pages 1-154, filed.
Apr.	2	Government's Exhibit No. 1 filed.

465 UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA

v.

JULIUS EMSPAK

Criminal No. 1742-50

Order

Upon consideration of the Defendant's Motion to Transmit Original Records and exhibits to the United States Court of Appeals for the District of Columbia Circuit, in connection with defendant's appeal from the judgment of this Court entered March 1, 1951, it is

ORDERED that the same be and hereby is granted.

F. DICKINSON LETTS
District Judge

Dated: March 16, 1951

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1 **Transcript of Proceedings**

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA

vs.

JULIUS EMSPAK, *Defendant.*

Criminal No. 1742-50

Washington, D. C.,
Monday, February 19, 1951.

The above-entitled case came on for trial at 10:15 o'clock a.m., on Monday, February 19, 1951, in the United States District Court for the District of Columbia, in the Courthouse, at Washington, D. C.

Before:

Honorable F. Dickinson Letts, District Judge of the United States District Court for the District of Columbia.

Appearances:

Charles B. Murray, Esquire, Assistant United States Attorney, in behalf of the United States; and

David Scribner, Esquire, and Allan R. Rosenberg, Esquire, on behalf of the defendant.

2 PROCEEDINGS

The Deputy Clerk of the Court: United States vs. Julius Emspak.

Mr. Scribner: The defendant is ready.

Mr. Murray: The Government is ready, if Your Honor please.

Mr. Scribner: If Your Honor please, we have a jury waiver here which I wish to present to the Court, and which has been signed and consented to by the United States Attorney.

The Court: Yes. It may be filed.

Mr. Rosenberg: Your Honor, may I move the admission of Mr. Arthur Kinoy of the Bar of the State of New York for the purpose of this proceeding only.

The Court: Yes.

You are Mr. Rosenberg?

Mr. Rosenberg: Rosenberg.

The Court: Yes. You will be present throughout the entire case?

Mr. Rosenberg: Yes, sir.

The Court: The admission will be granted for the purpose of this case.

Mr. Murray: May I hand up to the Court a copy of the statute, a copy of the indictment, and a printed copy of the transcript of the proceedings before the committee?

The Court: I see you handed up a copy of the hearing?

3 Mr. Murray: Yes, Your Honor.

The Court: Are there any committee reports that are available?

Mr. Murray: We have no intention of offering any, if the Court please.

The Court: Very well.

Mr. Murray: At this time.

The Court: You may proceed.

Mr. Murray: I might mention to the Court that many formal facts of the case have been stipulated to by counsel, and we thought it would be appropriate for us rather than to read the whole stipulation at this time, to call the parts of it to the Court's attention which relate to the trial as it proceeds.

Mr. Scribner: I have an extra copy of the stipulation. If you wish to follow that from my copy, I will be glad to hand it up to the Court.

The Court: I think we have one in the file here. I have the original here and I will use that.

Mr. Murray: Shall I proceed, Your Honor?

The Court: Yes, Mr. Murray, you may proceed.

Mr. Murray: Your Honor, I might say that the Government plans to call as a witness the counsel for the committee. He is in the courtroom at this time. If no point is made, I will proceed with the opening statement.

4 The Court: Is there any point about that? Do you care to have the witness excluded?

Mr. Scribner: Not at all. I don't think it is necessary.

OPENING STATEMENT ON BEHALF OF THE UNITED STATES

Mr. Murray: If the Court please, the indictment in this case charges, and I am summarizing it, that on December 5, 1949, the defendant, Julius Emspak, appeared as a witness before a duly created subcommittee of the Committee on Un-American Activities of the House of Representatives, holding a session in the District of Columbia, a hearing, and that on that occasion—

The Court: Before the full committee or a subcommittee?

Mr. Murray: It was a subcommittee of one.

The Court: A subcommittee, and the resolution provided for a subcommittee of as little as one?

Mr. Murray: The statute authorized the appointment of subcommittees but didn't specify the number. It didn't limit the number as to minimum or maximum.

We will show in that connection that it is the practice and has been for this committee and other committees, when necessity occurs, to appoint one-man subcommittees.

The Court: Did the resolution authorizing the investigation indicate what a subcommittee should be?

Mr. Murray: No, it didn't. It authorized subcommittees and didn't indicate that a subcommittee should consist of any particular number.

The Court: All right.

Mr. Murray: Your Honor mentioned the resolution.

The particular committee has now become a standing committee and its powers and purpose—

The Court (interposing): Are fixed by statute?

Mr. Murray: Are fixed by statute and by the rules of the Legislative Reorganization Act of 1946 adopted in the Rules of the House of Representatives, and provides as did resolutions when the committee was a special one.

The Court: Yes.

Mr. Murray: The indictment charges that on the occasion when the defendant appeared before its subcommittee that he refused to answer certain questions. The indictment contains 68 counts, listing the 68 questions which it is alleged the defendant refused to answer.

Before calling my witness, I think it appropriate to mention to the Court the issues which it appears now will be disputed.

It is quite certain from preliminary motions and arguments that the defendant in this case will contend that—let me preface that by saying—that the defendant will clearly admit that he did appear as a witness and was asked questions and didn't answer them.

He will claim, we anticipate, that he was right in refusing to answer the questions by reason of the

self-incrimination provision of the Fifth Amendment to the Constitution of the United States.

The Government will contend on that issue that he was wrong in refusing to answer these questions by reason of the fact that he didn't avail himself of the constitutional protection and didn't claim that the answer to any particular question might incriminate him or tend to incriminate him, and that he therefore waived the right at that time when refusing to answer, and that on that ground he lost it for good, and that therefore his refusal was a wrongful one.

Another issue which may be debated—

The Court (interposing): Did he invoke privilege as to each question?

Mr. Murray: As to each question he made a statement which the Government will say didn't invoke any privilege, and which, we anticipate, counsel for the defense may contend, did, but there was no gap in what he said in regard to the questions. He at all times said what he said in relation to each question.

The Government will say that he didn't in what he said make the claim which has to be made when availing one's self of that privilege, and the defendant will say he did do that.

The other issue which can be a matter of dispute will be whether the questions which the subcommittee, through its counsel, Mr. Tavenner, put to the witness and present defendant, Julius Emspak, were questions pertinent to the matter under inquiry by the subcommittee.

In that connection, we will show briefly that the subcommittee was investigating at that time the general subject of infiltration of communism in the labor unions, and in particular into the union of which the defendant, Julius Emspak, was then general secretary, and as far as I know still is, that is, the United Electrical Radio and Machine Workers of America, CIO, which is known usually by the initials UE.

Further on the issue of pertinency, the Government expects to show through Mr. Tavenner that the committee was interested in interrogating Mr. Emspak for the purpose of determining what powers he as an officer, and other named persons, as officers of the UE, what power they had to influence or perhaps control the workers in the unions under them, it having previously appeared to the committee from investigations that in classified defense work it had been the general practice for the Government through its various agencies to cause a loyalty investigation to be made into the workers themselves, the members of the unions, but not in so many instances to cause a similar loyalty check into the officers of the union.

So that they were faced with what appeared to be
8 an inadequate loyalty check, where the subordinates were checked, but those that controlled them were not.

It was the purpose of the subcommittee in the interrogation of Mr. Emspak to show, first that he did have certain powers which could influence and even control the workers, and secondarily, to show in his case, by questions put, his own membership in the Communist Party, and that having these powers, he would be disposed to use them against, rather than for the interests of the United States in its preparations for defense, and in its prosecution of war, if war should come. That is briefly the nature of the Government's showing on pertinency.

We say if we do prove the questions were pertinent, and if we do prove, as we expect to argue, that the defendant made no claim as a witness which would justify him by law or Constitution from refusing to answer, then he wrongfully refused and he is guilty as charged.

Our next step will be to call Mr. Tavenner, unless counsel wishes to make a statement.

Mr. Scribner: May I say a word, too?

The Court: Yes.

OPENING STATEMENT ON BEHALF OF THE DEFENDANT

Mr. Scribner: This prosecution is based on the assertion by the Government that the Fifth Amendment is not available to this particular witness before the House Un-
9 American Activities Committee. That is what it adds up to.

The Court: Because of what? What is the reason?

Mr. Scribner: That the Fifth Amendment is not available to this witness before the Un-American Activities Committee. That it what it adds up to.

As a matter of fact, we were surprised to be here this morning at all because we were under the impression that as the result of the ruling of this Court in the recent Russell case, which is easily supported by the cases, particularly those in the Supreme Court, the Blau case and other cases, that there would be no basis for this prosecution. But we are here.

Now, from the statement of Mr. Murray himself it appears to be the position of the Government, to attempt to get support for this contempt proceeding.

What we have in mind is with respect to the apprehension when the answers were made by Mr. Emspak, that the answers would tend to incriminate him.

They were interested in finding out whether he was a Communist, and a member of the Communist Party.

In addition to that, we will have in the record, if Mr. Murray doesn't, all the reports and hearings of the House Un-American Activities Committee and other committees, which were before Mr. Emspak at the time he walked into the House Un-American Activities Committee to participate in that inquiry.

10 I think it will be clear from the record that the assertion was properly made. I don't think that there will be any doubt about it. I think we will be able to show Mr. Emspak constantly referred to his original answer, which was specifically the Fifth Amendment, and

that as far as what the Fifth Amendment meant, that he wasn't subjecting himself to prosecution if he could avoid it, or have Federal prosecution against him.

Judge Kirkland already ruled on one of the motions to dismiss that all the questions were part of one single inquiry, and this entire single inquiry was related to the question of whether or not there was infiltration of communism in this particular union.

We will be able to show that was the purpose at the prior hearing held a few months before in respect to the officers of the union, in respect to some other persons, and to Mr. Emspak himself, as a matter of fact.

We will be able to show that the Russell case is completely dispositive of every factual and legal issue in the case.

I don't want to burden you with that now. We want to go forward with the evidence and the issue will be clear as we go along.

Mr. Murray: Mr. Tavenner, take the stand.

Thereupon,

11 **Frank S. Tavenner, Jr.**

was called as a witness by the United States and, being first duly sworn, was examined and testified as follows:

Direct examination

By Mr. Murray:

Q. What is your present position, Mr. Tavenner? A. Counsel for the Committee on Un-American Activities of the House of Representatives.

Q. Are you an attorney, sir? A. I am.

Q. A member of what bar or bars? A. A member of the Virginia Bar.

Q. Will you tell us, briefly, the official positions you have held in the past five or ten years, in a few words? A. I was Assistant United States Attorney for the Western District of Virginia from 1933 to 1940, at which time I became

United States Attorney and served in that capacity until July, 1948.

Q. When were you appointed to be counsel for the committee, Mr. Tavenner? A. I was appointed May 1, 1949.

Q. And you have served continuously in that capacity and are still counsel? A. Yes.

The Court: Mr. Murray, would it be agreeable to
12 counsel if I take a report from the grand jury?

Mr. Murray: Very well, Your Honor.

The Court: Will you step down?

(Thereupon the Court proceeded to other business after which the following occurred:)

The Court: You may proceed, Mr. Murray.

By Mr. Murray:

Q. Mr. Tavenner, I believe you have testified about your previous position, and that your present position, since May, 1949, is counsel for the Committee on Un-American Activities of the House of Representatives; right? A. That is correct.

Q. Did you act as counsel for the subcommittee of that committee on the 5th day of December, 1949, at a hearing at which Mr. Julius Emspak appeared as a witness? A. I did.

Mr. Murray: If the Court please, at this time I should like to direct the Court's attention to the stipulation and two paragraphs, 1 and 3, rather 1 through 3, pages 1 and 2. If the Court wishes to read that, I shall wait. If the Court prefers, I can make a brief statement to summarize it.

The Court: I think you should summarize it, perhaps.

Mr. Murray: It is stipulated in these paragraphs that the full committee of the Un-American Activities Committee of the House of Representatives was appointed
13 by resolution in January, 1949, and that a subpoena was issued for this defendant, Julius Emspak, to appear at a certain date, and that it was served upon the defendant.

And that thereafter, after certain postponements of the date of his appearing, that he did finally appear on December 5, 1949. He did at that time appear before a subcommittee of the Committee on Un-American Activities on December 5, 1949, in Washington, D. C.

By Mr. Murray:

Q. Where was that in Washington, Mr. Tavenner? A. At the hearing room of the committee, in room 226 or 224 of the Old House Office Building.

Mr. Murray: If the Court please, I don't know whether this is a matter of stipulation but I offer an excerpt from the Journal, which I know will be accepted as correct, showing the —

The Court (interposing): Is there any objection?

Mr. Scribner: No objection.

The Court: That will be marked.

Mr. Murray: That is Government No. 1.

(Thereupon the document was received in evidence and marked Government Exhibit No. 1.)

The Court: What does it show?

Mr. Murray: That shows the membership of the full committee, Your Honor.

14 The Court: Yes.

Mr. Scribner: We also have that in paragraph 14 of the stipulation itself.

Mr. Murray: This is a certified copy, Government No. 1, being an excerpt from the Journal of the House of Representatives for January 18 and January 31, 1949, and January 9, 1950, showing that John S. Wood was chairman of the committee and the following additional members were members of the committee.

The Court: As of what date?

Mr. Murray: As I will bring that out.

The Court: You mentioned the 9th.

Mr. Murray: The certification is dated in August 1950. I will question the witness to supply that, if Your Honor please.

The members are listed as John S. Wood, chairman, of Georgia; Francis E. Walter, of Pennsylvania; Burr P. Harrison, of Virginia; John McSweeney, of Ohio; Morgan M. Moulder, of Missouri; Richard M. Nixon, of California; Francis Case, of South Dakota; Harold H. Velde, of Illinois, and Bernard W. (Pat), Kearney, of New York.

By Mr. Murray:

Q. Mr. Tavenner, with this membership, was Mr. Wood chairman on December 5, 1949, if you recall?

15 A. I am certain as to all those, with the exception of Congressman Kearney, and without referring to the records I would not be able to state whether he had become a member of the committee at that time, but I think he did. I think he was a member at that time.

Q. I call your attention to the fact that the excerpt from the Journal, the last one of January 9, 1950, which was a little over a month after this hearing, could that have been the appointment of his successor, Kearney? A. Representative Kearney was appointed as successor to Parnell Thomas. I don't recall the date.

Q. Well, if it happened on this late date, this last dated excerpt of January 9, 1950, Parnell Thomas would be the last named member of this committee instead of Bernard Kearney; is that right? A. He would have been on the committee.

Q. And Mr. Kearney would not have been? A. That is right.

Q. Now, before what subcommittee was this hearing, Mr. Tavenner? A. A hearing held on December 5th was a subcommittee of one, consisting of Representative Moulder.

Q. Now, how had he been appointed, if you know? A. He had been appointed by the chairman. The meeting was held at the time when no other members of the committee were available, and my recollection is the chair-

16 man himself was out of the city, and on November 8th the chairman appointed Mr. Moulder as a committee of one to conduct this hearing.

Q. Now, will you inform the Court, Mr. Tavenner, what he practice is and to your knowledge has been in regard o the appointment of one-man subcommittees by full committees?

Mr. Scribner: May I object to the question? Of course, t would not call for any answer which would have any egal effect in this case. The only question is whether the ppointed subcommittee here was legally authorized. The ractice in a committee does not bind the defendant, or create evidence which would sustain the position of the Government with respect to the validity of the appointment.

Mr. Murray: The practices of the houses of Congress n regard to their internal committee administration are ecognized and honored by the Courts.

The Court: Well, that certainly would be true if the ractice was authorized by rule. Is it otherwise?

Mr. Murray: No. We are unable to state any rule or tatute specifically authorizing it. We are prepared to show t was the practice and not only of this but other committees, and we are prepared to show that there is no resolution, law, or other provision against it.

I remember in the Norris case against the man who happened to have the same name as the Senator, he was investigated by a subcommittee as the result of a single Senator, Nye.

The Court: Well, the Court is of the impression that he objection is good unless you can show at least that the ractice was universal.

By Mr. Murray:

Q. Mr. Tavenner, are you able to say whether the practice of appointing one-man subcommittees, when necessary y the chairman of committees, was universal?

Mr. Scribner: May I respectfully urge my objection and eserve my rights on that?

The Court: Yes, you may.

I want to hear the answer.

A. I could only state with certainty with regard to the practice within the Committee on Un-American Activities, and in some instances, which I am certain I know of, in other committees.

As it being the universal practice in other committees, I don't feel I am competent to testify.

Mr. Murray: Well, I will pursue that with a further question.

By Mr. Murray:

Q. You said other committees. Can you give us an estimate of how many other committees have done it to your knowledge. A. It would be a mere guess.

18 The Court: Well, we do not want that. Do not ask for a guess.

Mr. Murray: Very well.

The Witness: I could only answer by guessing which, of course, I would not do.

Mr. Scribner: May I move now to strike the prior answers with respect to the practice?

The Court: The motion is sustained.

By Mr. Murray:

Q. Mr. Tavenner, at the time the subcommittee of Mr. Moulder convened with you as counsel and Mr. Emspak as witness, did Mr. Moulder make an announcement of his appointment? A. Yes, he did. He read from the letter authorizing him to conduct the hearing, appointing him for that purpose, into the record a statement which he referred to as having been given him under date of November 8th, and the record shows what he said.

Mr. Murray: I offer in evidence at this time, if the Court please, the printed transcript of the proceedings. That will be Government Exhibit 2.

(Thereupon the document was received in evidence as Government Exhibit No. 2.)

The Court: Mark that No. 2.

Mr. Murray: Which it is stipulated is accurate.

Mr. Scribner: No objection to that. I will just move to strike that part of the witness' answer that relates
19 to the letter from which he purported to have read, and what appears in the record, in that record, is now in evidence. What else there may be, I assume, we will find out from the letter itself, if Mr. Murray is interested in it.

Mr. Murray: May I pursue that before the Court rules?

The Court: Yes.

By Mr. Murray:

Q. Answer this yes or no. Did you personally see the letter to which you have made reference? A. I did.

Q. Have you recently before the beginning of this trial made an attempt and caused attempts to be made to find that letter? A. I have.

Q. Have you succeeded in doing so? A. I have not.

Mr. Scribner: May I ask a question on voir dire with respect to that document?

The Court: Yes.

By Mr. Scribner:

Q. Mr. Tavenner, did the letter relate to the purposes for which the hearing was to be called? A. I would not attempt to recall the exact language of the letter. Representative Moulder is ill in the hospital, and I have
20 not been able to find whether he has the letter. His staff has not been able to locate it.

Mr. Scribner: May I respectfully move to strike all the testimony of the witness with respect to the letter, which he does not even have a clear recollection about?

The Court: Sustained.

Mr. Murray: Your Honor, may I have Government Exhibit 2? Your Honor has the copy.

The Court: Yes.

By Mr. Murray:

Q. Mr. Tavenner, I shall now read from the record and ask you questions in regard to the portions I read. I am reading from page 833, the first page of the transcript.

"Mr. Moulder. The committee will come to order.

"Let the record show that on November 8, 1949, the Honorable John S. Wood, chairman of the Committee on Un-American Activities, ordered, authorized, and directed Morgan M. Moulder, a member of this committee, as a subcommittee thereof, to hold, conduct, and preside over hearings scheduled for this day.

"Are you ready to proceed, Mr. Tavenner?

"Mr. Tavenner. Yes."

That ends the reading. Mr. Tavenner, at the time Mr. Moulder made that statement was Mr. Emspak present?

A. He was.

21 Q. Was anyone else there on his behalf? A. I recall that he was represented by his counsel. I believe only one counsel but I am not positive as to that.

Mr. Scribner: I will concede also it was myself representing him at that time, that I was in the courtroom at the same time.

The Witness: That is correct.

Mr. Scribner: In the hearing room of the committee, I mean.

The Witness: That is correct.

By Mr. Murray:

Q. On that occasion and immediately following Mr. Moulder's announcement or at any time thereafter did Mr. Emspak, his counsel, or anyone there, make objection to Mr. Moulder's undertaking to sit as a subcommittee of one?

Mr. Scribner: I respectfully submit that is immaterial.

The Court: He may answer.

A. No.

By Mr. Murray:

Q. Mr. Tavenner, was this an open hearing or so-called public hearing? A. It was.

Q. Now, what was the Committee on Un-American Activities investigating in a general way at the time Mr. Emspak appeared and shortly before Mr. Emspak's appear-
22 ance before Mr. Moulder in December, 1949? A. This hearing was set up for the particular purpose of developing the practices and duties of various officials of the national organization of UE with the idea of determining whether or not there was a difference in practice, in certain Government agencies, in screening or clearing officials of the union for security purposes in plants where the Atomic Energy Commission, or the Army, Navy, and Air Force, were having secret Government projects worked upon.

That was the specific purpose of calling Mr. Emspak, and the next witness who succeeded him was Mr. Matles, as officials of that union, that is, of the national union. It followed the reference to our committee of what was known as the Wood bill, and it was part of an investigation which the committee had undertaken some months prior.

Q. And into what particular subject? A. Into the infiltration of Communist labor unions working on defense projects, from the standpoint of individuals who weren't actually working in the plant but who were officials of the union, as distinguished from those who had actual contact with classified material.

Q. Will you inform the Court very briefly what was the nature of the Wood bill? A. The Wood bill was a bill which made it unlawful or prohibited persons working in defense plants who were members of the Communist
23 Party, and also made it an offense under certain circumstances for people to work in the organization, who were members of the Communist Party, and some provisions of that bill were subsequently written into the Internal Security Act of 1950, as it was recommended by

the committee and reported by the committee, namely, which is part of that hearing, from the Army and from the Atomic Energy Commission, who testified on the practices and interpretations placed by both of those organizations on the law requiring the security clearance for their particular projects, and as the result of which definite recommendations were made to Congress as the result of this testimony.

Mr. Murray: If the Court please, I propose now to read the transcript of the entire proceedings at which Mr. Emspak was a witness.

Now, some of these proceedings do not appear in the indictment. In other words, there were some questions he answered—well, I don't know whether I should take the questions that he answered, if they are not in the indictment, but unless counsel requests I should not read that part, I should like to read it all.

Mr. Scribner: I have no objection to having the entire transcript read.

Mr. Murray: Your Honor, I believe the copy of the transcript that I handed up to the Court has indi-
24 cated in penciling the numbers of the counts.

The Court: Yes. That is No. 2. Let me have that.

Mr. Murray: No, on the copy I gave Your Honor.

The Court: Oh, yes, I see.

Mr. Murray: The first count, Your Honor, appears some five pages after the beginning, on page 838, but I will begin to read at the very beginning, at page 833.

As I come to the count, does the Court wish me to indicate it?

The Court: Yes, I think that might be helpful.

Mr. Murray (reading): "HEARINGS REGARDING COMMUNIST INFILTRATION OF LABOR UNIONS—PART II.

"(Security Measures Relating to Officials of the UER-MWA-CIO)

"Monday, December 5, 1949

"United States House of Representatives,

"Subcommittee of the Committee on Un-American Activities, Washington, D. C.

"The subcommittee of one met, pursuant to call, at 3:30 p.m., in room 226, Old House Office Building, Hon. Morgan M. Moulder, presiding.

"Committee member present: Hon. Morgan M. Moulder.

"Staff members present: Frank S. Tavenner, Jr., counsel; John W. Carrington, clerk; Benjamin Mandel, director of research; and A. S. Poore, editor.

25 "Mr. Moulder. The committee will come to order.

"Let the record show that on November 8, 1949, the Honorable John S. Wood, chairman of the Committee on Un-American Activities, ordered, authorized, and directed Morgan M. Moulder, a member of this committee, as a subcommittee thereof, to hold, conduct, and preside over hearings scheduled for this day.

"Are you ready to proceed, Mr. Tavenner?

"Mr. Tavenner. Yes. I call as the first witness Mr. Julius Emspak.

"Mr. Moulder. You solemnly swear the testimony you are about to give will be the truth, the whole truth, and nothing but the truth, so help you God?

"Mr. Emspak. I do.

"TESTIMONY OF JULIUS EMSPAK, ACCOMPANIED BY HIS COUNSEL, DAVID SCRIBNER.

"Mr. Tavenner: What is your full name, please?

"Mr. Emspak: Julius Emspak.

"Mr. Tavenner. Are you represented here by counsel?

"Mr. Emspak: Represented? No. He is with me. He is not representing me.

"Mr. Tavenner. Are you accompanied by counsel?

"Mr. Emspak. Yes.

"Mr. Tavenner. Will counsel identify himself for the record?

26 "Mr. Scribner. David Scribner.

"Mr. Tavenner. When and where were you born, Mr. Emspak?

"Mr. Emspak. August 6, 1904, Schenectady, New York.

"Mr. Tavenner. What is your present address?

"Mr. Emspak. 49 Cliff Side Drive, Tuckahoe 7, New York.

"Mr. Tavenner. What is your present occupation?

"Mr. Emspak. General secretary, United Electrical, Radio, and Machine Workers of America.

"Mr. Tavenner: Are you also a member of the executive committee of that organization?

"Mr. Emspak. Ex officio; yes.

"Mr. Tavenner. How long have you been an official of the UE?

"Mr. Emspak. Since its inception.

"Mr. Tavenner. And that is how long ago?

"Mr. Emspak. Since April 1, 1936, or 1 or 2 days either way.

"Mr. Tavenner. What have been the official positions held by you since that time in UE?

"Mr. Emspak. Just that.

"Mr. Tavenner. Will you state for the committee, please, in a general way, what your previous employment
27 has been?

"Mr. Emspak. Well, Mr. Chairman, I began work in the General Electric plant in Schenectady when I was old enough to get working papers, 14 years old, in January 1919, and served my apprenticeship there, working as a tool designer and so on.

"Mr. Tavenner. I would like to ask you a few questions about the organization of the UE. How many districts are there in the United Electrical, Radio, and Machine Workers of America organization?

"Mr. Moulder. How many what?

"Mr. Tavenner. Districts.

"Mr. Emspak. The constitution prescribes 12.

"Mr. Tavenner. Are there 12 districts.

"Mr. Emspak. Not functioning; no.

"Mr. Tavenner. A district normally comprises what territory?

"Mr. Emspak. It is a geographical and industrial entity that we try to develop as a district. They vary in size both as to area and membership.

"Mr. Tavenner. How many locals are there in UE?

"Mr. Emspak. Perhaps 400. I can't give you the exact number. I just don't have it in my head.

"Mr. Tavenner. Aren't there considerably more than 400 locals?

28 "Mr. Emspak. No. Perhaps you are thinking of the contracts with employers.

"Mr. Tavenner. How many rank and file members are there in the UE?

"Mr. Emspak. We repreesnt in collective bargaining approximately half a million, covered by collective bargaining agreements.

"Mr. Tavenner. You have persons known as organizers, do you not?

"Mr. Emspak. Oh, of course.

"Mr. Tavenner. What are their functions?

"Mr. Emspak. To service the local unions, organize the unorganized, help the local unions negotiate agreements, and so on.

"Mr. Tavenner. Are they pretty close to the rank and file of the membership?

"Mr. Emspak: Yes. They usually live in the communities where they work.

"Mr. Tavenner. How many organizers are there at one time in your union?

"Mr. Emspak. At one time?

"Mr. Tavenner. Yes.

"Mr. Emspak. It is not a static number. I suppose 120 or 130."

Your Honor, would it be agreeable to you for me
29 not to repeat each name? They appear to be the same each time.

The Court: Yes, I think I can follow it just as well if you omit the name.

Mr. Murray (reading): "Mr. Tavenner. Are they assigned to the various districts?

"Yes, and locals.

"How are the organizers selected?

"Recommendations of people, local unions, individual members, and so on.

"The local members make recommendations?

"On occasions they do.

"Then who does the appointing?

"The general executive board.

"The executive board. How many are on the executive board?

"Twenty.

"Twenty?

"Plus three officers.

"Plus the three officers, of whom you are one?

"Yes.

"You have in your organization what are known as international representatives; have you not?

"Correct.

"Will you describe the duties of international representatives?

"They are in effect, in charge of a group of organizers in a given area or district, working in conjunction with the district officials.

"They assist in negotiating contracts?

"Yes. Their functions are essentially the same as the functions of organizers except they coordinate the activities of the staff and they are superior to the organizers, if you want to call it that.

"How many international representatives are there in UE?

"I can't give you the exact number. I suppose 15 or 20.

"How are they selected?

"Out of the staff. The organizers usually are promoted.

"And they are selected by the executive committee?

"Yes.

"You have also what is known as a business agent?

"They are employees of local unions.

"How are they selected?

"The membership of the local usually elects them.

"Is their appointment or selection ratified, or approved by the executive committee?

"No.

"How many business agents represent the union
31 at any one time?

"That I can't answer. I just don't know.

"Briefly, what are the duties of the executive committee, of which you are a member?

"Administer the affairs of the national organization.

"Determine policy of the organization?

"No; the convention determines policy.

"Does the executive committee have any function in the negotiating of contracts or wage disputes?

"No; other than whatever the framework of the collective-bargaining policy happens to be at a given time.

"In the adjustment of grievances which may occur from time to time, what part do the officials of the UE play in such adjustments?

"It depends on the nature of the grievance and what the situation may be. By and large that is a routine administrative job that the locals handle themselves. A grievance is something that develops on a job, and most of the grievances are handled within the locals. National officers as such rarely participate.

"Will you give examples of instances in which the officials or the members of the executive board have functioned in settling or adjusting grievances?

32 "Will you repeat that?

"I say, will you give me an illustration, or cite instances, of when officials or members of the executive board function in the adjustment of grievances?

"You mean a specific type of case?

"Yes, and the procedure.

"Well, I haven't been involved in one in several years, and I would have to search my memory to tell you that. I can go back in history and give you examples of them.

"Suppose you do that.

"Understand, I am playing entirely by ear on this one. I recall some years ago a grievance arising in a plant of the General Electric Co. involving two men in a mid-western plant, which could not be settled locally, and it finally landed in the national office. I went out there and talked with the local management, and met with our committee, and had a joint meeting of the committee and management, and called the vice president of the company in charge of manufacturing and had a long conversation with him on the phone, and finally worked out an approach to it and it was resolved. Other times we would have formal meetings set up and carry on regular discussions on the basis of forms that were made out, whether it is a
33 dispute on wages or lay-off or whatever it might be.

"What other types of services do officials or members of the executive committee render the rank and file in the way of adjustment of grievances?

"We provide all sorts of information. We provide the information and personnel necessary to work out a given problem. That is our main job.

"Does that require your going on the job?

"On occasion we go in the field; yes.

"Is that frequently done, or infrequently done?

"Rather frequently. After all, problems are constantly pressing. That is the chief reason for the existence of the organization.

"The union has a contract with various employers, I suppose, in which your union is recognized as the bargaining agent in any disputes that might arise between labor and management?

"Yes.

"How many contracts, roughly speaking, do you have with employers?

"Approximately 1,500.

"That covers the work being performed in approximately how many plants?

"That many plants. No; I take that back; roughly that many plants, but a few more plants than that, because some national agreements cover a number of plants.

"In negotiating those contracts, and in the settlement of disputes arising under them, do the officers and members of the executive committee visit those plants?

"No; we don't go into plants, if that is what you mean. We go to local union meetings and have district meetings and national conferences with delegates from those plants, and so on, and work out whatever has to be worked out, whether a collective-bargaining agreement or an approach to a grievance settlement.

"Are there occasions when the officers and members of the executive committee are required to exercise disciplinary action over lesser officials and rank and file members of the union?

"I don't know what you mean when you say disciplinary action. We don't operate the way some or most unions do. Essentially—not essentially, but in every instance—the membership ultimately makes the decision on any proposition. Sometimes we may find ourselves where our point of view is not carried; other times it is. That goes on every day.

"In the event there is an infraction of the rules of your union, what action is taken or may be taken by your committee?

"The membership of the local union where it occurs, or area where it occurs, makes the decision on that, with a right to appeal to the convention, which takes place every year.

"You spoke of virtually 1,500 plants which are covered by contracts with the UE. In how many of these plants do you consider there is being done classified or restricted work for the Army, Navy, or Air Corps?

"I have no way of knowing.

"You have no way of knowing in which plants restricted work is being done?

"No.

"Is it being done in a considerable number?

"I just can't answer that. I can't give you a sensible answer to that.

"Does the UE have an official publication?

"Yes.

"What is the name of it?

"UE News.

"Where is it published?

"New York.

"How is it financed?

"Dues of the membership.

"Collected through the union?

"Local unions.

"And paid by —

36 "Paid by the individual members to the local union.

"And the local union —

"Transmits a portion of that to the general office.

"And the general office pays for the financing of the paper?

"Yes.

"How is the editor of that paper selected?

"Officially I am the editor.

"You are at the present time?

"Yes.

"How long have you been editor?

"Since we set up the union.

"How were you selected?

"By the executive board. The constitution provides that one of the paid officers be designated editor.

"Is the editorial policy of the paper controlled and directed by the executive board?

"The basic editorial policy is controlled by convention decision.

"Does the executive board function also in that connection?

"The function of the executive board is to carry out the affairs of the union between conventions on the basis of the policy decisions of the convention.

"Mr. Emspak, are you acquainted with Joseph Persily."

That is Count No. 1, if the Court please.

37 "Mr. Tavenner. Mr. Emspak, are you acquainted with Joseph Persily?

"Mr. Emspak. Mr. Chairman, I would like to say something at this point.

"Mr. Moulder. You mean in response to the question?

"Mr. Emspak. I will answer the question; yes, in response to the question and as a statement of position.

"What I say revolves around two points, one organizationally and another as an individual. Organizationally, my job as an officer of this union is to represent the interest of the membership as they determine it at the annual conventions and at other means they have of getting together and expressing themselves. My job is to administer that aspect to the best of my ability, using one very simple measuring stick, and that is: Does a given policy or action contribute to the well-being of the membership, individually and collectively?

"As an individual I would like to say one thing, and that is this: The line of questioning that counsel is developing now is a line that has been used on numerous occasions by this committee and other congressional committees in an attempt to harass the union, its leadership, and its members. It is a line of questioning that goes against my grain as an American. I was born in this country. Everything I am —

38 "Mr. Moulder. How long will this statement take, Mr. Emspak?

"Mr. Emspak. About two or three more minutes.

"Mr. Moulder. Proceed.

"Mr. Emspak. Everything I am, I owe to the rich heritage and tradition of this country. I do not believe that a com-

mittee of this kind, especially in view of the recent record of this committee where it stooped to interfere in the partisan affairs of a local union, or any congressional committee, because of the rich tradition of this country which, if not perverted, will lead to a greater and better country—I don't think a committee like this or any subcommittee has a right to go into any question of my beliefs, my associations, or anything else. I have a couple of kids. They have a stake in this country, too.

"Mr. Moulder. I want to give you full opportunity to express yourself in answer to the question, but you are making an oration now.

"Mr. Emspak. It is not an oration. It happens to be a very profound personal feeling.

"Mr. Moulder. What is the question?

"Mr. Tavenner. The question is: Are you acquainted with Joseph Persily?

"Mr. Moulder. How do you spell that?

39 "Mr. Tavenner. P-e-r-s-i-l-y.

"Mr. Emspak: Because I have a stake in this country——

"Mr. Moulder. You are not answering the question. He asked you if you are acquainted with this man.

"Mr. Emspak. I will answer it.

"Mr. Moulder. Are you or not?

"Mr. Emspak. I was on the verge of answering it.

"Mr. Moulder. If you have any explanation to make you will be permitted to do so after you answer the question.

"Mr. Emspak. Because of my interest in what is going on these days, because of the activities of this committee—

"Mr. Moulder. Are you going to answer the question?

"Mr. Emspak. Because of the hysteria, I think it is my duty to endeavor to protect the rights guaranteed under the Constitution, primarily the first amendment, supplemented by the fifth. This committee will corrupt those rights.

"Mr. Moulder. Do you think it corrupts you to answer the question?

"Mr. Emspak. I certainly do.

"Mr. Moulder. Why does it corrupt you?

"Mr. Emspak. Your activities are designed to harm the working people of this country. Every action this committee has ever taken has done that. You interfered last summer in the election of a local union at the request of a priest. You know that. You dragged down the prestige of this country.

"Mr. Moulder. You are not going to take over this committee.

"Mr. Emspak. I don't want to.

"Mr. Moulder. And your statements are preposterous. The purpose of this committee is to expose communism as it exists in this country. What is the question?

"Mr. Tavenner. Are you acquainted with a Joseph Persily?

"Mr. Emspak: For the reasons I stated before, I answered it.

"Mr. Moulder. Then you refuse to answer the question?

"Mr. Emspak. No. I answered it.

"Mr. Tavenner. Are you or are you not acquainted with Joseph Persily?

"Mr. Emspak. I answered the question.

"Mr. Tavenner. Your replies are a refusal to comply with the request to answer it?

"(Witness confers with his counsel.)

"Mr. Moulder. The record will reveal that you have not answered the question.

"Mr. Emspak. I have answered it to the best of my ability under the circumstances.

"Mr. Moulder. Any further questions?"

The Court: About the middle of page 838, he says: "I will answer the question; yes, in response to the question and as a statement of position."

Wasn't that an answer to that question?

Mr. Murray: No, Your Honor. The question is, "Do you know Joseph Persily?" He either knows him, he doesn't, or for some reason he can't remember.

The Court: Doesn't he say "Yes" in response to the question?

Mr. Murray: The answer to the question "Do you know Joseph Persily" would be yes or no. He does not say he knows him, doesn't say he doesn't know him. Therefore, he did not answer the question.

The Court: But he says "Yes" in response to the question.

Mr. Murray: He uses that word "yes" but not in relation to whether he is acquainted with Persily, which was the question. The word "yes" appears several times in what he says, but never in reference to whether he knows Persily.

The Court: Go ahead.

Mr. Murray: Resuming at page 840, if the Court please, the next question I am to read is Count 2 of the indictment; I will go back to give it sense: (Reads, as follows:)

"Mr. Moulder. Any further questions?

"Mr. Tavenner. Yes. In what capacity is Joseph
42 Persily associated with the UE at this time?

"Mr. Emspak. It is the same question over again. I will give the same answer."

Count 3:

"Mr. Tavenner. Is he an organizer in the UE?

"Mr. Emspak. Mr. Chairman, it is the same question.

"Mr. Tavenner. You refuse to answer that?

"Mr. Emspak. I answered it."

Count 4:

"Mr. Tavenner. Are you acquainted with Albert Smith?

"Mr. Emspak. The same answer applies to that.

"Mr Tavenner. In other words, you are refusing to answer whether you are acquainted with him or not?

"Mr. Emspak. I have answered the question as I see the answer."

Count 5:

"Mr. Tavenner. Is he employed by UE?

"Mr. Emspak. Mr. Chairman, I answered the question.

"Mr. Moulder. Could you tell us who those people are, Mr. Counsel?

"Mr. Emspak. Excuse me, please.

"(Witness confers with his counsel.)

"Mr. Tavenner. Joseph Persily and Albert Smith
43 are the two persons whose names were mentioned.

"Mr. Moulder. Who is Joseph Persily?

"Mr. Tavenner. I thought he was connected with the UE, but I am unable to understand from this witness what the connection is, if any.

"Mr. Moulder. Do our records reveal who he is?

"Mr. Tavenner. I do not know whether they do or not, Mr. Chairman.

"Mr. Emspak, has Max Helford ever been connected with UE as a field organizer?

"Mr. Emspak. Mr. Chairman, on these questions, which are all essentially the same, of course, when this hearing was announced according to the press reports, at least, it was announced because this committee presumably was interested in finding out things with references to individuals in our organization by using whatever means it has at its disposal, and for the purpose of trying to perhaps frame people for possible criminal prosecution.

"I don't see how or why any individual should be subjected to that kind of questioning here if he is going to maintain, you know, his feelings on these questions, and I tried to express the feeling before when you interrupted me. I just don't intend, as I said then, to be a party to any kangaroo court proceedings of this committee or any other
congressional committee. I think I have the right to
44 reserve whatever rights I have in that respect to whatever appropriate bodies may be set up to deal with questions that come up.

"Mr. Moulder. Do you mean to say you have people in your organization who have information that would subject you to criminal prosecution?

"Mr. Emspak. No; I don't, Mr. Chairman. As a basic proposition—and it has worked over the years and over the last few months as far as this committee is concerned—a slick job—

"Mr. Moulder. Do you know them or not?

"Mr. Emspak. That does not concern this committee at all.

"Mr. Moulder. Is it your feeling that to reveal your knowledge of them would subject you to criminal prosecution?

"Mr. Emspak. No. I don't think this committee has a right to pry into my associations. That is my own position.

"Mr. Tavenner. Is Max Helford at the present time a field organizer for the UE?

"Mr. Emspak. Mr. Chairman, that is repetition of basically the same question, and the same answer stands."

Count 8:

"Mr. Tavenner. Was Phil Saba originally from local 155?

"Mr. Emspak. I answered that question."

Count 9:

"Mr. Tavenner. And is he now a field organizer for the UE in district 1?

"Mr. Emspak. I answered that question and that is the only answer I will give on any of my associations, for the reasons stated."

Count 10:

"Mr. Tavenner: Is Hank Rhine presently an international representative of the UE?

"Mr. Emspak. Same answer."

Count 11:

"Mr. Tavenner. Is Jack Gorelick now affiliated with the UE?

"Mr. Emspak. Same answer."

Count 12:

"Mr. Tavenner. Is Ernest Moyer a field organizer for UE in the Eastern area?

"Mr. Emspak. Same answer."

Count 13:

"Mr. Tavenner. Do you know James Lustig?

"Mr. Emspak. Same answer."

Count 14:

46 "Mr. Tavenner. Is he an international representative of UE?

"Mr. Emspak. We can go on endlessly like this, I suppose, but the same answer holds."

Count 15:

"Mr. Tavenner. Is Morris Kersten an international representative of UE?

"Mr. Emspak. Same answer."

Count 16:

"Mr. Tavenner. Is Fred Haug an international representative of UE?

"Mr. Emspak. Same answer."

Count 17:

"Mr. Tavenner. Is Charles Newell an international representative of UE?

"Mr. Emspak. Same answer."

Count 18:

"Mr. Tavenner. Is Leo Turner a field organizer in district 6?

"Mr. Emspak. Same answer."

Count 19:

"Mr. Tavenner. Is Hugh Harley a field organizer for UE?

"Mr. Emspak. Same answer."

Count 20:

47 "Mr. Tavenner. Is Arthur Garfield an international representative of UE?

"Mr. Emspak. Same answer."

Count 21:

"Mr. Tavenner. Is Ernest DeMaio presently an international representative of UE?

"Mr. Emspak. Same answer."

Count 22:

"Mr. Tavenner. Is Henry Fiering a field organizer for the UE?

"Mr. Emspak. Same answer."

Count 23:

"Mr. Tavenner. Is Herbert Hirschberg an international representative of UE?

"Mr. Emspak. Same answer."

Count 24:

"Mr. Tavenner. Is K. M. Kirkendahl a field organizer of the UE?

"Mr. Emspak. Same answer."

Count 25:

"Mr. Tavenner. Is Robert Harrison a field organizer of the UE?

"Mr. Emspak. Same answer."

Count 26:

"Mr. Tavenner. Is William Santora a field organ-
48 izer of the UE?

"Mr. Emspak. Same answer."

Count 27:

"Mr. Tavenner. Is Marcel Scherer an international representative of the UE?

"Mr. Emspak. Same answer."

Count 28:

"Mr. Tavenner. Is Louis I. Sorti a field organizer of the UE?

"Mr. Emspak. Same answer.

"Mr. Moulder. Same answer is your refusal to answer for the reasons given?

"Mr. Emspak. I gave specific reasons why I felt I should not participate in this kind of questioning, and I stand by that."

Count 29:

"Mr. Tavenner. Is Philip V. Gelder an international representative of the UE?

"Mr. Emspak. Same answer."

Count 30:

"Mr. Tavenner. Is Perez Zagorin a field organizer of the UE?

"Mr. Emspak. Same answer."

Count 31:

"Mr. Tavenner. Is Carl Brandt connected or associated in any way as an international representative or otherwise with UE?

"Mr. Emspak. Same answer."

Count 32:

"Mr. Tavenner. Is Al Clough a field organizer?

"Mr. Emspak. Same answer.

"Mr. Tavenner Is Kermit Kirkendahl a field organizer?

"Mr. Emspak. Same answer."

Count 33:

"Mr. Tavenner. Is John Thomas a field organizer?

"Mr. Emspak. Same answer."

Count 34:

"Mr. Tavenner. Is Fred Keller a field organizer with UE?

"Mr. Emspak. Same answer."

Count 35:

"Mr. Tavenner. Is John Mitchell a field organizer?

"Mr. Emspak. Same answer."

Count 36:

"Mr. Tavenner. Is Fred Sheppart a field organizer?

"Mr. Emspak. Same answer."

Count 37:

"Mr. Tavenner. Is L. B. Slagle a field organizer with UE?

"Mr. Emspak. Same answer.

"Mr. Tavenner. Is Martin Sramek a field organizer with UE?

"Mr. Emspak. Same answer."

Count 38:

"Mr. Tavenner. Is Robert B. Logsdon an international representative of UE?

"Mr. Emspak. Same answer."

Count 39:

"Mr. Tavenner. John Bittman is a field organizer, is he not?

"Mr. Emspak. Same answer."

Count 40:

"Mr. Tavenner. Is William B. Elconon an international representative?

"Mr. Emspak. Same answer."

Count 41:

"Mr. Tavenner. Is H. M. Martinson a field organizer?

"Mr. Emspak. Same answer.

"Mr. Tavenner. Is Anthony DeMaio an international representative of your union?

"Mr. Emspak. Same answer."

Count 42:

"Mr. Tavenner. Is Irene Berman an international representative?

"Mr. Emspak. Same answer."

51 Count 43:

"Mr. Tavenner. Is Allan Bjorklund a field organizer?

"Mr. Emspak. Same answer."

Count 44:

"Mr. Tavenner. Is Thomas Foley a field organizer?

"Mr. Emspak. Same answer."

Count 45:

"Mr. Tavenner. Is Robert Kirkwood an international representative?

"Mr. Emspak. Same answer."

Count 46:

"Mr. Tavenner. Is Lee Lundgren an international representative?

"Mr. Emspak. Same answer."

Count 47:

"Mr. Tavenner. Is William Mauseth a field organizer?

"Mr. Emspak. Same answer."

Count 48:

"Mr. Tavenner. Is William Sheehan a field organizer?

"Mr. Emspak. Same answer."

Count 49:

"Mr. Tavenner. Is Phillip H. Smith an international representative with the UE?

"Mr. Emspak. Same answer."

52 Count 50:

"Mr. Tavenner. Do you know John T. Bernard?

"Mr. Emspak. Same answer."

Count 51:

"Mr. Tavenner. Is he a field organizer for the UE in the Chicago district?

"Mr. Emspak. Same answer."

Count 52:

"Mr. Tavenner. Is Peter Besch an international representative?

"Mr. Emspak. Same answer."

Count 53:

"Mr. Tavenner. Is T. Louis Majors an international representative?

"Mr. Emspak. Same answer."

Count 54:

"Mr. Tavenner. Is Robert McNaughton a field organizer?

"Mr. Emspak. Same answer."

Count 55:

"Mr. Tavenner. Is John Paradise a field organizer?

"Mr. Emspak. Same answer."

Count 56:

"Mr. Tavenner. Is Nick Tomasetti a field organizer?

"Mr. Emspak. Same answer."

53 I might say for the first time there is a break in the numerical sequence here, Your Honor. The next

question after Tomasetti is Count 59. It follows question, Count 56 on the transcript, but it is Count 59:

"Mr. Tavenner. Mr. Emspak, have you ever been affiliated with the National Federation for Constitutional Liberties?

"Mr. Emspak. I answered that, Mr. Chairman.

"Mr. Tavenner. I say, have you ever been affiliated with such an organization?

"Mr. Emspak. I answered that.

"Mr. Moulder. You mean you refuse to answer for the reasons previously stated?

"Mr. Emspak. I answered it in the terms I did when I said as far as my associations and affiliations are concerned, that is something a committee of this kind should not pry into.

"Mr. Taverner. In other words, you do not care to disclose whether you are affiliated with that organization?

"Mr. Emspak. I answered that.

"Mr. Tavenner. Mr. Emspak, were you not a signer of a statement which hailed the War Department's order for commissions for Communists?

"Mr. Emspak. Same answer.

54 "Mr. Tavenner. Mr. Emspak, do you know that the National Federation for Constitutional Liberties has been cited as a subversive organization by two Attorneys General, as well as by the Committee on Un-American Activities?

"Mr. Emspak. It may have been. I don't know.

"Mr. Tavenner. Mr. Emspak, were you a sponsor of the so-called Win the Peace Conference held in Washington, D. C., on April 5 to 7, 1946?

"Mr. Emspak. Same answer to that.

"Mr. Tavenner. You are acquainted, are you not, with the fact that the organization has been cited as Communist and subversive by the Attorney General and by this committee?

"Mr. Emspak. Not necessarily. I don't recall.

"Mr. Tavenner. You don't recall, or you weren't concerned enough—

"Mr. Emspak. I just don't recall.

"Mr. Tavenner. Mr. Emspak, have you ever been associated with the Civil Rights Congress?

"Mr. Emspak. Again, basically the whole line of questions is the same, so I will say I take the same position I expressed earlier.

"Mr. Tavenner. Are you familiar with the fact that the Civil Rights Congress has also been cited as a Communist-front organization by the Attorney General?

55 "Mr. Emspak. Same answer.

"Mr. Tavenner. Are you acquainted with Louis Budenz?

"Mr. Emspak. Same answer.

"Mr. Tavenner. Louis Budenz was former editor of the Daily Worker, was he not?

"Mr. Emspak. Same answer.

"Mr. Tavenner. You are acquainted with the fact, are you not, that on March 18, 1947, in testimony before a committee of Congress, he identified you as a member of the Communist Party?

"Mr. Emspak. Whatever Budenz does, don't ask me to underwrite. Sure, I am acquainted with him.

"Mr. Tavenner. You know that he did so identify you as a member of the Communist Party. Do you desire to deny it?

"Mr. Emspak. I have no desire to express any opinion on my associations to this committee, for the reasons I stated.

"Mr. Tavenner. So you decline to deny or affirm that you were a member of the Communist Party?

"Mr. Emspak. I answered the question."

The next question, if the Court please, is Count 57:

"Mr. Tavenner. Are you acquainted with James

56 MacLeish?

"Mr. Emspak. Same answer.

Count 58:

"Mr. Tavenner. Is he now president of District 4, United Electrical, Radio, and Machine Workers of America?

"Mr. Emspak. Same answer.

"Mr. Tavenner. Are you acquainted with Salvatore M. Vottis?

"Mr. Emspak. Same answer.

"Mr. Tavenner. That is all you care to say about that?

"Mr. Emspak. Same answer, that is all."

Count 61:

"Mr. Tavenner. On July 25, 1947, Mr. Emspak, Mr. Vottis, in sworn testimony before this committee, stated that he had attended fraction meetings of the Communist Party along with you and other members of the UE. Do you deny or affirm the statement made by Mr. Vottis?

"Mr. Emspak. I won't discuss it at all other than in the terms I have.

"Mr. Tavenner. Mr. Emspak, Mr. Vottis also testified you attended Communist Party meetings held in his home in Schenectady, N. Y. Do you deny or affirm that statement?

57 "Mr. Emspak. I neither deny nor affirm it, Mr. Chairman.

"Mr. Tavenner. You have already testified that from the inception of the organization of UE News you have been its editor. I will make several rather long statements as a basis for questions which I would like to ask you.

"Before August 1939 the Comintern and its affiliated Communist Parties attacked Hitler as a warmonger and nazism as barbarism. The American Communist Party and affiliates of the Soviet Communist Party demanded international boycotts and blockades.

"A review of UE News for the period mentioned reveals it had the same attitude as the Communist Party toward Hitlerism. For instance, the UE News, in its first issue of 1939, praised the idea of an embargo on Germany, and on January 14 UE News carried a critical story on forced

labor in Germany. On March 25 it reviewed Hitler's promises of nonaggression and deplored the rape of Czechoslovakia. But in August 1939 the Hitler-Stalin pact was signed, and Commissar Molotov on that occasion remarked that: 'Fascism, after all, is a matter of taste.'

"A week after the signing of the pact, World War II began when the Nazis invaded Poland. The American Communist Party line quickly reversed itself, along
58 with the Communist Parties of all other countries, and, until June 22, 1949."

The Court: 1941.

Mr. Murray: I am sorry. Did I read that wrong?

The Court: I think you said "1949."

Mr. Murray: I am sorry. I will begin that sentence again. (Reading:)

"The American Communist Party line quickly reversed itself, along with the Communist Parties of all other countries, and, until June 22, 1941, the Communist press was filled with attacks on American and British leaders. The war was denounced as an imperialist war and President Roosevelt became a warmonger. Aid to Britain and the other countries fighting Hitler were violently opposed, as were proposed amendments to the neutrality law which would allow England to purchase munitions.

"The UE News, like the Communist Party, reversed its sentiments concerning the Hitler government and quickly took the position that the war was a profiteers' war. The UE News said that—

" 'Labor in America, watching the sorry sight, is watchful lest our own tories involve us in the conflict.'

"On September 30, 1939, the UE News, in a full-page editorial entitled 'Let's Do Our Fighting Here' declared that—

59 " 'The war that is going on is no exception to the rule that wars are fought for money. American labor wants no part of this fishy war.'

"For the rest of the year 1939 the UE News praised the fight of the so-called isolationists in Congress, and on

November 11, 1939, attacked Congress for making the United States 'the arsenal of the world.' The administration was condemned by the UE News as 'bomb peddlers.'

"Mr. Emspak, could you explain why the UE News, of which you were editor at the time, followed the line of the Communist Party and expressed the same views as the Communist Parties of the world both before and after the signing of the Hitler-Stalin pact?

"Mr. Emspak. UE News followed the line expressed by the membership at its conventions, and the line to the best interests of the working people. I think any time we can do anything at all to fight fascism and war, we are helping the people. The fact that the line followed by UE News coincided with the Communist Party line is purely coincident. Whenever we can do anything to help the laboring people, we do it.

"Mr. Tavenner. So it was a coincidence that the policy of the UE News coincided with the Communist Party
60 line?

"Mr. Emspak. The policy of UE News is determined by the membership at the conventions.

"Mr. Tavenner. Mr. Emspak, in 1940 the Communist Party's antiwar and isolationist line was continued and intensified. President Roosevelt was vilified as a warmonger and dupe of British imperialism . Throughout the United States the Communist Party held 'peace rallies' and 'keep America out of war' meetings. There were marches on Washington and numerous petition campaigns. Lend-lease was denounced as were moves to modify the Neutrality Act. Aid to Britain of any kind was opposed. One piece of propaganda, a pamphlet entitled 'The Yanks Are Not Coming' which was written by a west coast Communist was of particular interest to the Communist Party.

"A review of the UE News for the same period reflects that, like the Communist Party, it attacked President Roosevelt as a warmonger and charged that 'the forgotten man has yielded to the man in uniform as the chief object of concern of the national administration.'

"On January 20, UE News said that 'national defense is a gag.' Also on January 20, 1940, UE officials in district 6 signed a proclamation declaring that 'The Yanks are positively not coming.'

61 "Throughout the year, in numerous stories and editorials, UE News denounced United States foreign policy and aid to the allies. On February 24, 1940, UE News devoted a full page to the Communist pamphlet The Yanks Are Not Coming, and, like the Communist Party, praised the pamphlet as a history-making publication.

On June 8, 1940, James MacLeish, president of district 4 of the UE, issued a statement which claimed that—

"'A war hysteria is being developed with terrific speed in the United States. The entire Federal administration, including the President, is giving leadership to this campaign.'

"The UE News, on July 20, 1940, attacked the Selective Service Act and on September 21, 1940, demanded its repeal.

"Mr. Emspak, can you explain how it was that the UE News during the year 1940 followed the program of the Communist Party without deviation in its attitude toward the Second World War?

"Mr. Emspak. UE News did not follow the line of the Communist Party, Mr. Chairman. UE News followed the line the membership developed for themselves in the UE.

"Mr. Tavenner. Was it the Communist membership in the UE that developed that policy which was the same as the policy of the Communist Party?

62 "Mr. Emspak. We have no political tests in our organization. A member expresses any views he wants to, and one member does not make a decision.

"Mr. Tavenner. In 1940 the Communist Party also violently opposed the President's plan to lend United States arms to England and his proposal to transfer the group of over-age destroyers to Britain in return for Atlantic bases.

"During 1940, while the Hitler-Stalin pact was still in effect, very little criticism of Hitler and nazism was contained in the Communist press. The Communist Party and the Daily Worker repeatedly attacked Sidney Hillman and his work in the Office of Production Management and the War Production Board.

"In 1940 the Communist Party was fanatically opposed to President Roosevelt and ran its own Presidential candidate, Earl Browder. On April 8 and 9, 1940, Germany invaded Norway and Denmark. The Communists defended this invasion on the ground that Norway and Denmark were provoking Hitler. On June 15, 1940, Russia invaded Latvia, Estonia, and Lithuania, and occupied these Baltic countries. The Communist Parties throughout the world hailed the invasion of the three countries by the Soviets as a great military victory for Stalin.

"On September 27, 1940, Germany, Italy, and Japan signed the Axis Pact. The Communist line was
63 that this pact was justified because of the imperialist designs of England and the United States.

"During the same period, the UE News opposed the transfer of overage destroyers to England, particularly in its issue of September 14, 1940. On December 28, 1940, it attacked the President's proposal to lend England a quantity of American arms. During 1940 the UE News reflected the Daily Worker and the Communist press, printing no more than one or two small items speaking harshly about Hitler and nazism.

"On October 19, 1940, the UE News attacked Sidney Hillman's work in the national defense agencies, despite the fact that Hillman at the time was the president of another CIO union. Throughout the year 1940 the UE News attacked the President, despite its endorsement of the previous year of the third term. During the same year, like the Daily Worker, it failed to criticize the German invasion of Norway and Denmark. Strangely, there was no comment from the UE officials or from the UE News on

the Soviet occupation of the Baltic countries. UE News and the UE officials at no time during the year 1940 criticized the formation of the Fascist Axis which was created on September 27, 1940.

"Mr. Emspak, could you explain how the UE News adhered to the same line as the Communist Party,
64 changing each time the Communist Party changed?

"Mr. Emspak. Of course, I denied that it adhered to it. I told you before, and repeat again, that whatever appears in that paper, whatever appeared then or now, appears as a result of whatever the basic policy of the union as such is. It certainly is not an organ of the Communist Party, nor are your attempts to prove it so by these long statements going to succeed, because it just isn't so.

"Mr. Tavenner. The most active Communist front during the first 7 months of 1939 was the American League for Peace and Democracy. However, when the Hitler-Stalin Pact was signed in August 1939, the American League for Peace and Democracy, of which I believe you were a member, was dissolved promptly.

"Immediately thereafter the Communists created the American Peace Mobilization, and the White House was picketed with signs declaring 'The Yanks Are Not Coming;' and the American Peace Mobilization sent numerous delegations to Washington to exert pressure on Congressmen who agreed with President Roosevelt on aid to England and the Allies.

"Mr. Emspak, officials of the UE were prominent in the American League for Peace and Democracy, and when the League was dissolved these officials
65 promptly switched to the new Communist creation called the American Peace Mobilization.

"Can you explain why the UE in this particular instance followed the same line as the Communist Party?

"Mr. Emspak. Well, Mr. Chairman, I just don't get this. I do, of course, in a very real way, but basically you

are asking the same recurring question as to whether the UE News was an organ of the Communist Party, which it isn't. It reflects the views of the UE membership, and that is that."

The Court: I think I had better give your voice a little rest. We will take a short recess.

(Thereupon, a brief recess was had.)

The Court: You may proceed.

Mr. Murray: Thank you. I was reading at the top part of page 848. I will read the last sentence I read before the recess. (Reading:)

"It reflects the views of the UE membership, and that is that."

I shall now resume the reading. (Reading:)

"Mr. Tavenner. In other words, you contend there was no influence or pressure brought to have the editorial policy of the UE News follow the Communist Party line, though it did follow it?

66 "Mr. Emspak. Not only do I contend it, I assert it didn't.

"Mr. Tavenner. In 1941 the Communist Party line regarding the Second World War was a continuation of its 1940 position. The national defense program was constantly condemned, aid to England was violently opposed, and the Communist Party and its front organizations lobbied against lend-lease, against the loan of arms to England, and every other move in and out of Congress designed to assist England and stop the Nazi world conquest.

"The UE News on January 11, 1941, attacked the President's message to Congress asking for increased defense funds and aid to the Allies. Also on January 11, the UE News, on page 4, carried an article in which you attacked Sidney Hillman for serving as a member of the National Defense Advisory Committee.

"On January 25, 1941, the UE News devoted a full page to the American Peace Mobilization, which had you as a member of its national council.

"The American Peace Mobilization, even on the very day that Hitler attacked Russia, was picketing the White House. On June 17, 1941, just 5 days before Hitler's invasion of Russia, James MacLeish, president of district No. 4 of the UE, attacked the Defense Mediation Board,
67 and on June 7, 1941, on page 3 of the UE News, district No. 6, Council of the United Electrical Workers, declared:

"'It is becoming clearer every day that the heat is on to wind up a drive to push us into war, being conducted by big business interests who stand to profit and by the administration of Franklin D. Roosevelt and the Republican and Democratic Parties.'

"Mr. Emspak, can you explain how it was that you and your organization's newspaper, the UE News, followed the Communist Party line which I have outlined in my question?

"Mr. Emspak. UE News did not follow the Communist Party line. UE News is not the organ of a foreign power. UE News is a trade-union paper governed by the policies of the membership of the union.

"Mr. Tavenner. Also prior to the date of the attack by Germany upon Russia, the Communists in the United States were in favor of strikes in defense industries. For instance, when Wyndham Mortimer, a known Communist, called a strike at the crucial North American Aviation plant at Inglewood, Calif., the Communist Party and its press gave it their full support. The President eventually ordered Government seizure of this important defense plant; and, as a result, the Communist press said
68 that this move was outright fascism and meant the end of civil liberties in this country.

"Despite the fact that Phil Murray instructed the strikers to return to work, the UE supported the North American strike. On June 14, 1941, the UE News condemned Government intervention and declared, editorially:

"'As war fever reaches a new high, more and more

openly the forces of the Government are being turned to the suppression of the people's democratic liberties for the announced purpose of 'defending democracy.'

"You, yourself, proclaimed that the Government action—'has parallel only in the blackest pages of history in this country.'

"Mr. Emspak, again I ask you how it was that you and the organ of your organization supported the Communists in the North American Aviation strike?

"Mr. Emspak. We supported the North American Aviation strike, but we didn't support the Communists. I said then, and I repeat again what I said then about the use of troops in a labor dispute. Our country was not at war. It was 2 years before our country was at war.

"Mr. Tavenner. On June 22, 1941, Hitler invaded Russia, and the Communist Party, within the space of 2 hours, completely reversed the party line. The war they
69 had been calling an 'imperialist' war became a 'people's war' and a 'great democratic crusade.' Hitler, for whom the Communists had no harsh words for the past year and a half, became a raving beast. The President, who was reviled as a warmonger on June 21, on June 22 became a great democratic leader. The Communist opposition to aid for England and the Allies was transformed into a tremendous campaign for all-out assistance to every nation lined up against Hitler. The class struggle was suspended by the Comintern, and Earl Browder publicly declared that he was willing to work with J. P. Morgan and the National Association of Manufacturers.

"Mr. Emspak, the line of the UE News and of its officials after the invasion of Russia by Hitler was changed to the same line as that of the Communist Party. For instance, Local 1224, in the first issue of UE News following the invasion of Russia, passed a resolution demanding immediate aid to the Soviet Union. District 4, in the July 5, 1941, issue of UE News, went on record demanding that 'the Soviet Union, Great Britain, and all others sincerely

fighting the Fascist Axis be accorded the fullest assistance to avail themselves of our industrial or material resources.'

"On July 10 in UE News, district No. 1 council announced that it 'supports without reservation all-out aid for
70 Britain, China, and the Soviet Union.'

"Also, the Communist Party said that nothing must interfere with war production. Strikes were outlawed, and Earl Browder said he could see no reason why the wartime amity between labor and employers could not continue.

"The UE on July 26, 1941, proposed that President Roosevelt should 'immediately call a national conference of labor, agriculture, Government, and industry.'

"Mr. Emspak, can you explain how it was that prior to the attack by Germany upon Russia the UE supported strikes in defense plants the same as the Communist Party, whereas after the attack by Hitler upon Russia the UE, the same as the Communist Party, opposed strikes in defense industries?

"Mr. Emspak. The UE didn't take any position on strikes as such until after Pearl Harbor. Then we made a commitment to our Government on strikes, and I was a party at the meeting of the industry-labor conference that worked out that agreement.

"Mr. Tavenner. After the attack by Germany upon Russia, the Communist Party uttered hardly a word of criticism of President Roosevelt, who, until June 22, was branded an enemy of the working class and a destroyer of peace.

"On October 25 the UE News printed a three-column story asking for complete repeal of the Neu-
71 trality Act which had been advocated sometime before by President Roosevelt and opposed by both the Communist Party and the UE News.

"Mr. Emspak, can you explain why this shift in the sentiment of the UE occurred regarding the repeal of the Neutrality Act?

"Mr. Emspak. Whatever the position of the union was at the time, I suppose.

"Mr. Tavenner. On October 25, 1941, the UE News devoted a whole page to a plan developed by Joseph Selly and the American Communications Association to keep spies out of the country. Can you explain why it is that when this committee is trying to keep spies out of the count.y the UE refers to its efforts as 'Red baiting'?

"Mr. Emspak. Because that is what it is. It is union-busting. It is anti-people. It is everything that is bad in this country. It is more than 'Red baiting.' It is the first step of fascism.

"Mr. Tavenner. Do you feel that we should permit spies to come in this country?

"Mr. Emspak. No; I don't, and you know I don't.

"Mr. Tavenner. In the latter part of the year 1941 the Communist Party from time to time admitted that England and her allies had actually been fighting fascism before Russia was invaded. However, prior to Russia's
72 entry into the war, England was engaged in fighting an 'imperialist' war, according to the Communist Party line. I think I have pointed out that the UE also followed this line.

"In September 1941, the UE convention went on record and said that England was worthy of securing aid from the United States, and one of the resolutions adopted at the convention stated that 'the tremendous sacrifices being made by the British, Russian, Chinese, and other peoples in this resistance to Hitlerism are sacrifices made on our behalf as well as their own, and contribute directly to the defense of our country.' This resolution asked that all possible aid be given to Great Britain, the Soviet Union, China, and other nations resisting Hitlerism.

"Mr. Emspak, can you explain why it was that the United Electrical Workers' convention adopted such a resolution as this, whereas prior to the Russian invasion by Germany the UE was opposed to aiding Britain and its allies?

"Mr. Emspak. I suppose the people changed their minds.

"Mr. Moulder. I didn't hear your answer.

"Mr. Emspak. I said I suppose the people changed
73 their minds. We had a convention. There was a big 'hash-over,' I suppose, and they came to a certain decision, and that is that.

"Mr. Moulder. Any further questions, Mr. Tavenner?

"Mr. Tavenner. I think that is about all. I would like to release the witness and call him back. I want to ask him a few questions after questioning another witness."

That concludes the interrogatories—oh, I beg your pardon—no; it doesn't. I will continue where it dropped off, Your Honor,—"after questioning another witness."

(Reading:)

"Mr. Moulder. I do want to make this statement in reply to the statements you have made about this committee, Mr. Emspak. It is the function of this committee to expose communism and un-American activities. An appearance before this committee does not deny you any constitutional rights or privileges, nor have you been accused of anything. Your action before this committee discloses a flagrant attitude toward this committee.

"You made reference to an investigation by this committee of a CIO union. I was at that hearing, and it was disclosed that candidates for delegates to your national convention were, by inferences they would not deny—and
74 one, Whisner, admitted he was a delegate to the Soviet Union and that other members of the union had been sent as delegates to Friends of the Soviet Union. Just what influence did the disclosure of those facts by this committee have on the election?

"Mr. Emspak. That hearing was held when a priest by the name of Father Rice called a member of this committee and, at the request of the priest, who was interested in a low partisan level, this committee held the hearing. Whereas the hearing was intended to have an unfavorable reaction on the election to be held, one of the people here before this committee got the second highest vote cast.

"Mr. Moulder. It was the members of the union who voted for the delegates?

"Mr. Emspak. Yes.

"Mr. Moulder. How could this committee affect the election?

"Mr. Emspak. By the smear job this committee attempted to do.

"Mr. Moulder. Do you think it was a smear to expose that candidates were delegates for the Soviet Union?

Mr. Emspak. You have Congress interfering in a local union election.

"Mr. Moulder. It was the members of the union who voted and they had a right to exercise their own judg-
75 ment.

"Mr. Emspak. They did. One of the boys here got the second to highest vote. It shows the efforts of the committee were wasted.

"Mr. Moulder. You don't want the average union member to know anything about the Communist affiliations officers of the union may have, if they do have such affiliations?

"Mr. Emspak. I don't care, and that is not the concern of the membership. The concern of the membership is who is doing a job for them.

"Mr. Moulder. Don't you believe that the rank and file of any union should have knowledge of communistic activities within the union, and should have an opportunity to be so informed, and that this committee is performing a service when it does so expose such communistic activities within a union?

"Mr. Emspak. Of course this committee is not performing any service for organized labor.

"Mr. Moulder. Do you think it is wrong for this committee to expose the fact that Communists are trying to take over organized labor? Are you in favor of Communist control of organized labor?

"Mr. Emspak. I am not, and I am not in favor of a religious group taking control.

76 "Mr. Moulder. Don't you think if the Communists gained control of organized labor, they would lose the privileges they have to bargain freely?

"Mr. Emspak. I don't know. That is a hypothetical question.

"Mr. Tavenner. Mr. Emspak, you recently signed a non-Communist affidavit which you filed with the National Labor Relations Board?

"Mr. Emspak. That is right.

"Mr. Tavenner. When was this affidavit signed?

"Mr. Emspak. The convention had a session in September and the convention made a decision that the organization comply with the Taft-Hartley requirements in order to avail itself of whatever facilities were available, and on the basis of that decision the officers signed the non-Communist affidavits. The exact date, I don't recall. We had an acknowledgment from the Board, but the affidavit speaks for itself.

"Mr. Tavenner. Since that time you have been expelled from membership on the executive board, have you not?

"Mr. Emspak. No.

"Mr. Tavenner. You have not?

"Mr. Emspak. You mean of CIO?

"Mr. Tavenner. Yes.

77 "Mr. Emspak. No; we withdrew.

"Mr. Tavenner. You withdrew?

"Mr. Emspak. Yes; the day before. The day that the original subpoena was dated, by the way, by the purest coincidence.

"Mr. Tavenner. I assure you that must have been a coincidence.

"Mr. Emspak. Yeah.

"Mr. Tavenner. At this time are you a member of the Communist Party?

"Mr. Emspak. I answered that when I said the affidavit speaks for itself.

"Mr. Tavenner. Is that all the answer you care to give?

"Mr. Emspak. I should think that is plenty.

"Mr. Tavenner. The affidavit spoke as of the date you gave it some months back, but you are not willing to speak now as to what you are?

"Mr. Emspak. I understand an affidavit to be an affidavit, a document that is binding when one undertakes to subscribe to it. I further understand what the motives of this committee are, to establish a beautiful frame to hang people who try to comply with the law. O. K. The affidavit is binding, and that is that.

78 "Mr. Tavenner. That is all you have to say?

"Mr. Emspak. I think that answers the question fully and completely."

Count 64:

"Mr. Tavenner. Were you a member of the Communist Party at any time before you signed the affidavit?

"Mr. Emspak. That I will answer the same way I did about an hour ago.

"Mr. Tavenner. Have you ever paid Communist Party dues?

"Mr. Emspak. I answered that."

Count 66:

"Mr. Tavenner. Have you ever signed an application to join the Communist Party?

"Mr. Emspak. I answered that."

Count 67:

"Mr. Tavenner. Have you ever registered as a member of the Communist Party?

"Mr. Emspak. I answered that."

Count 68:

"Mr. Tavenner. Did you, as a member of the Communist Party, attend the trial of Earl Browder at Communist Party headquarters in New York City?

"Mr. Emspak. I answered that.

"Mr. Moulder. You mean you refuse to answer for

79 the same reasons you gave at the beginning?

"Mr. Emspak. That is correct. I answered the best way I know how.

"Mr. Tavenner. You know that Mr. Budenz testified you did attend the trial of Earl Browder?

"Mr. Emspak. Mr. Budenz testified to a lot of things. I read about it.

"Mr. Tavenner. Is it true or not?

"Mr. Emspak. I answered that.

"Mr. Tavenner. That is all you have to say?

"Mr. Emspak. Yes.

"Mr. Tavenner. Do you recall the film produced by UE, Deadline for Action?

"Mr. Emspak. I do recall it very well.

"Mr. Tavenner. What was the result of the showing of that film?

"Mr. Emspak. Apparently a major corporation in this country, in conjunction with an agency of the Government, succeeded in framing a man named Marzani and sending him to jail because that film happened to touch a tender spot with regard to the large corporations, because it happened to be an effective film.

"Mr. Tavenner. I have attempted to trace here the line of the UE News in comparison with the Communist Party line. I want to give you an opportunity to disavow, if you so desire, any of the statements I referred to from UE News, of which you are editor.

"Mr. Emspak. Anything that is printed in printed. I am not avowing or disavowing anything. My memory is not that good that I can recall everything you read. Whatever position the UE News took reflected the views of the UE, and that is that.

"Mr. Tavenner. I would like to ask that the witness be available tomorrow morning.

"Mr. Moulder. You are excused until tomorrow morning.

"I wish to say I have no religious prejudices whatsoever. This committee was not influenced by any church to conduct any investigation into local union affairs. I am strongly in favor of organized labor, and most of the members of this committee are, and we are not doing anything to hamper organized labor. We feel it is the duty of this com-

mittee to protect labor unions against Communist infiltration, and that we will try to do.

"You are excused until 10 o'clock tomorrow morning.

"Mr. Scribner. Isn't it possible to conclude today? We have been here since 10 o'clock this morning. The fact there were other witnesses before the committee is not the fault of this witness. He was subpoenaed for 10:30 this morning, and I think we should conclude today in-
31 stead of adjourning and possibly getting ideas overnight to go into the next day.

"Mr. Tavenner. I take exception to counsel's statement that we desire to adjourn so as to get ideas to go into tomorrow. It was my plan to finish examining this witness after I examined Mr. Matles. That was the plan and is still the plan.

"Mr. Moulder. Could we go ahead and finish today?

"Mr. Tavenner. Yes. It is now 5 o'clock, but we can go ahead.

"Mr. Moulder. Very well.

"Mr. Tavenner. Mr. Matles, please."

Then Mr. Matles was sworn, and gave testimony. Subsequently, Mr. Julius Emspak was recalled, and I shall begin reading again, if the Court please, at the upper part of page 858: (Reading)

"Mr. Tavenner. Mr. Emspak, I asked you a number of questions about your duties and about the services rendered by you and other officers of the UE to the rank and file in the matter of handling grievances, and how there were occasions when you went to the local community and worked on those problems.

"Now I would like to revert again to that subject for a few minutes and ask you several other questions.

"In the event of grievances, a business agent, in
32 endeavoring to settle a dispute between labor and management, has the right, has he not, under certain circumstances, to make an inspection on the job?

"Mr. Emspak. Not necessarily.

"Mr. Tavenner. Not necessarily?

"Mr. Emspak. No.

"Mr. Tavenner. But he has that right?

"Mr. Emspak. No. It depends on the type of local collective bargaining agreement that is in existence. In some cases they do, and others they do not.

"Mr. Tavenner. In the instance of the contract with General Electric does he have that right?

"Mr. Emspak. It does not permit inspection by the business agent.

"Mr. Tavenner. It does not?

"Mr. Emspak. No.

"Mr. Tavenner. Are not officers of UE permitted to make inspections on the job?

"Mr. Emspak. No. What happens on the rare occasions it is used, a joint committee of management and local union representatives may go look at a specific job.

"Mr. Tavenner. Let me read you paragraph 4 of the contract:

"'In those cases where it is mutually agreed by
83 management and local representatives that an inspection of the job would be helpful in settling the case, a joint committee of local and management representatives shall be allowed to make an inspection of the job. Local representatives may include the business agent or his assistant or officers of the local.'

"So both the business agent and officers of the union would have the right?

"Mr. Emspak. Possibly, but it is not automatic. Every member of the local under that provision, has the right.

"Mr. Tavenner. Mr. Emspak, the union officers also have the right, do they not, if they are so minded, to precipitate a strike?

"Mr. Emspak. No.

"Mr. Tavenner. They may do it ostensibly for trade-union purposes, and it may be done actually even for a foreign power?

"Mr. Emspak. No. That is a completely misleading, and a calculatedly misleading statement. In the first place,

so far as this union is concerned, no officer has a right to call a strike at any time, nor any group of officers. This organization happens to be one where a basic decision of that kind is reserved to the members and the members alone.

84 "Mr. Tavenner. But that would depend on the influence the leadership has on the rank and file?

"Mr. Emspak. It does not depend on any individual, and it depends on what the issue is.

"Mr. Tavenner. Mr. Emspak, I will ask you this question: Have you, as an officer of UE, or have any of the other officers of UE, to your knowledge, been denied the right to participate in the negotiation of wage disputes, by security officers of the Army, Navy, or Air Corps?

"Mr. Emspak. We have never been denied that right. At least, I never have. The question has never come up.

"Mr. Tavenner. Have you ever been denied, by such security officers of the Army, Navy, or Air Corps, all access to any plants?

"Mr. Emspak. I haven't had occasion to ask, and haven't been in any.

"Mr. Tavenner. So far as you know, you neither have been cleared nor barred?

"Mr. Emspak. So far as I know I am just an ordinary guy who has had no occasion to go in a plant. I haven't been in a plant, I guess, for 10 years.

"Mr. Moulder. Did you testify to your previous employment before going in the newspaper business?

"Mr. Emspak. I am not a newspaperman. I am
85 an officer of the union, and the constitution of the union requires that one of the paid officers be designated editor in order to have it hook up to the organization.

"Mr. Moulder. Prior to your official position, where were you employed?

"Mr. Emspak. In the General Electric plant at Schenectady until the spring of 1936.

"Mr. Tavenner. Have any other officials of UE been barred by security officers, to your knowledge?

"Mr. Emspak. You mean national officers?

"Mr. Tavenner. Yes.

"Mr. Emspak. Not that I know of.

"Mr. Tavenner. That is all."

That concludes, if the Court please, the entire examination of Mr. Emspak on December 5, 1949, in which are included the 68 questions which are contained in the indictment.

The Court: Mr. Murray, I think it is time to take a little time out for food. So we will come back at one-thirty.

(Thereupon, at 12:30 o'clock, p. m., a recess was had until 1:30 o'clock, p. m.)

86 AFTER RECESS

(The trial was resumed at 1:30 o'clock p.m., pursuant to the recess.)

Thereupon,

Frank S. Tavenner, Jr.

resumed the witness stand pursuant to the recess and testified further as follows:

The Court: Mr. Murray, you may proceed.

Direct Examination (Resumed)

By Mr. Murray:

Q. Mr. Tavenner, after Mr. Emspak and Mr. Matles had finished their appearance and testimony, were other witnesses heard from the Government and Army? A. Yes. We produced a witness by the name of Mr. Smith from the Atomic Energy Commission, and an officer of the Army, whose name I don't recall offhand.

Q. Mr. Barlow, Colonel Barlow? A. Yes, sir.

Q. Now, I observe at the conclusion of Colonel Barlow's testimony, who appears to be the last witness, and this was

on the following day of December 6, 1949, you made a statement in retrospect in regard to the purposes of the inquiry, and I shall now ask you, if you will, to read out loud from page 874, the bottom part of the page, the last paragraph that has your name, beginning Mr. Tavenner, and I will ask you to read that. A. (Reading) "Mr.
87 Chairman, this concludes the testimony at this hearing. You will probably recall that various members of the committee indicated, as I suggested a moment ago, at both the open and closed session at which the Franeys were heard on June 6, 1949, that further investigation should be made of security measures in force at plants working on secret or classified Government defense projects. Further investigation has been made from time to time.

"It has been developed in this hearing that certain officers of national unions which are bargaining agents under contracts with plants where secret or classified defense work is being performed are not subjected to security regulations in all cases.

"The testimony introduced at this hearing discloses the duties and powers of certain officials of UE in negotiating contracts, in the adjustment of grievances, in the administration of the affairs of the union, and in the right in certain instances to inspect jobs, though located in classified working facilities.

"The Atomic Energy Commission has recognized the risk involved to national security in failure to subject such officials to the same security requirements as those dealing with classified material.

88 "Mr. Moulder. I understand they do have such rules and regulations.

"Mr. Tavenner. They do have cases where those security standards have not been met, as was the case with UE.

"The security section of the Army rather takes the view, if I understand the testimony correctly, that it has no authority under the law to subject the officials of such an organization to any type of security standards except in

instances where an official in performing his duty is required to know or to see classified material.

"Without some type of security standards applying to officers of the type and character of officers in a union which has a bargaining agency contract, such officers, if actually disloyal to the United States, apparently would have opportunity to seriously jeopardize the national defense.

"It is suggested, therefore, that you consider reporting this matter to the committee as a whole for its opinion as to whether additional investigation is desired, and whether it desires to make recommendations for legislative enactment."

Q. That is sufficient reading.

Mr. Tavenner, I will ask you if at this time in your present testimony you adopt that as a statement of the
89 purpose of the inquiry just concluded?

Mr. Scribner: I respectfully object to the nature of the question. It is a question whether that was the purpose of the hearing at that time.

The Court: Sustained.

By Mr. Murray:

Q. Was the purpose as stated in the portion of the record you have read, the purpose of the hearings just concluded, of December 5 and 6, 1949? A. It was.

Mr. Murray: Will Your Honor indulge me just a moment?

The Court. Yes.

Mr. Murray: I m just about ready to finish my direct examination. I want to be sure I have everything.

That concludes the direct examination, Your Honor.

The Court: You may cross examine.

Cross Examination

By Mr. Scribner:

Q. Mr. Tavenner, the hearings which are now marked Government Exhibit 2, attachment 2 of the stipulation, were

called "Hearings Regarding Communist Infiltration of Labor Unions, Part II," were they not? A. That is correct.

Q. And that was the official designation given by the committee itself to the hearings? A. When release of
90 that testimony was made.

Q. And that was a fair and accurate statement or description of the hearing, was it not? A. It was a description of the general subject.

Q. That is right. I note that that was Part II of a hearing. Was there a Part I? A. Yes, there was.

Q. And was that called "Hearings Regarding Communist Infiltration of Labor Unions, Part I, Local 601, United Electrical, Radio and Machine Workers of America," and that was the way it was designated by the committee itself, and is a fair description of the nature of the hearing? A. That was the way in which it went out as a committee release.

Q. I assume that was an accurate statement by the committee as to the nature of the hearing. That is the question. A. I suppose it would cover the subject.

Q. You were present as counsel for the committee at the hearings regarding Communist infiltration of labor unions, part 1, were you not? A. That is correct.

Q. And at the hearings you had testimony from a number of witnesses, charging certain officials and members and staff members of the United Electrical, Radio and Machine Workers of America, as Communists or affili-
91 ated with Communist activities?

Mr. Murray: Don't answer that.

If Your Honor please, I think this is the appropriate time for me to state it in the form of an objection in regard to the examination of this witness. We have offered Mr. Tavenner's testimony in support of our side of the issue of pertinency. We have limited his testimony, first, to a statement of the general purpose of the committee's inquiry, without reference to any particular individuals, that only in preliminary fashion, and secondly, his testimony in regard to the reason for calling Mr. Emspak in particular, and the examination of Mr. Emspak, in particular.

The Government has purposely limited its proof on the pertinency issue, and in particular to the subject of the Emspak hearing.

Now, counsel is about to ask preliminary questions identifying a previous report, in regard to the committee, not this subcommittee, but the full committee, or another subcommittee's previous examination on other questions, and other individuals.

I object to it, unless it is offered, unless their cross examination is directed to the credibility of the testimony of the witness. I assume it is a collateral inquiry, and although the defendant is not precluded entirely from asking questions, I object to it. I object to it insofar as it
92 purports to be cross examination within the scope of our direct examination.

I say it is beyond the scope of the direct examination, and it is admissible only as a collateral inquiry for credibility purposes.

The Court: The objection is overruled.

Mr. Scribner: May I have the last question read to the witness?

The Court: Yes.

The Reporter (Reading): "Question: And at the hearings you had testimony from a number of witnesses, charging certain officials and members and staff members of the United Electrical, Radio and Machine Workers of America, as Communists or affiliated with Communist activities?"

The Witness: My answer was yes.

By Mr. Scribner:

Q. I read you now 6 (f) of the stipulation, and I will read from that—I will first read from 6.

"The documents noted below"—

The Court (interposing): Where are you reading from?

Mr. Scribner: From the stipulation itself, at page 2, No. 6, at the bottom of the page.

"The documents noted below from which excerpts are set forth below are true and accurate documents as transcribed,

compiled, published and issued by the respective
93 committee, or subcommittee, of Congress, for public sale and distribution and the following excerpts therefrom are true and accurate excerpts from said document."

And then I go to subsection (f).

"From 'Hearings Regarding Communist Infiltration of Labor Unions, Part I, Local 601, United Electrical, Radio and Machine Workers of America, CIO, at Pittsburgh, Pennsylvania; Hearings before the Committee on Un-American Activities, House of Representatives, Eighty-first Congress, First Session, August 9, 10, and 11, 1949'."

And now I shall go to the specific excerpts from this hearing, the accuracy of which is already indicated, notwithstanding this stipulation by the Government.

By Mr. Scribner:

Q. I ask you, Mr. Tavenner, whether this is not a true statement of the purposes of the committee as it appears in the record from which I have quoted, at page 541:

"Mr. Tavenner. Mr. Chairman, the purpose of this hearing is to inquire into the question of Communist affiliation or association of certain members of Local 601 of the United Electrical, Radio and Machine Workers of America, CIO, which is engaged in work at industrial plants important to the national defense." A. That is correct.

94 Q. I call your attention to attachment 3 of the stipulation, which has already been stipulated by the Government and the defendant as an accurate transcript from the same hearing, and an accurate excerpt from the transcript of the same hearing, to which I have already referred, and I would like to read that to you.

By the way, these hearings were held, were they not, on August 9, 10 and 11? A. I recall hearings were held on this subject at that time.

Q. Now, I will read from the attachment itself.

"Mr. Tavenner. Now will you proceed with your resume as to Mr. Julius Emspak?

"Mr. Russell. In sworn testimony of Salvatore M. Vottis before this committee during the hearings regarding communism in labor unions, he made the following statement concerning Julius Emspak and James Matles:

"'Mr. Stripling. Is it your opinion that James Matles and Julius Emspak are members of the Communist Party?

"'Mr. Vottis. Yes, they both are members of the party, to my knowledge.

"'Mr. Stripling. You sat in meetings with them?

"'Mr. Vottis. I sat in meetings with them. They
95 have met in my home as members of the Communist Party.' (See Hearings Regarding Communism in Labor Unions, p. 219.)

"Report 1311 of the Special Committee on Un-American Activities, dated March 29, 1944, contains a chapter dealing with the activities of Julius Emspak, secretary-treasurer of the United Electrical, Radio, and Machine Workers of America, CIO, beginning on page 163.

"Julius Emspak has been affiliated with the National Federation for Constitutional Liberties as one of the signers of a statement sponsored by that organization which hailed the War Department order on commissions for Communists. (See Daily Worker of March 18, 1945, p. 2.)

"The congressional Committee on Un-American Activities cited the National Federation for Constitutional Liberties as being among a 'maze of organizations' which were 'spawned for the alleged purpose of defending civil liberties in general but actually intended to protect Communist subversion from any penalties under the law' (Rept. No. 1115, September 2, 1947, p. 3).

"In a report dated March 29, 1944, page 50, of the Special Committee on Un-American Activities, it was stated that—

"'There can be no reasonable doubt about the fact
96 that the National Federation for Constitutional Liberties—regardless of its high-sounding name—is one of the viciously subversive organizations of the Communist Party.'

"Attorney General Francis Biddle cited this group as—'part of what Lenin called the solar system of organizations, ostensibly having no connection with the Communist Party, by which Communists attempt to create sympathizers and supporters of their program * * *. (It) was established as a result of a conference on constitutional liberties held in Washington, D. C., June 7-9, 1940 * * *. The defense of Communist leaders such as Sam Darcy and Robert Wood, party secretaries for Pennsylvania and Oklahoma, have been major efforts of the federation.' (See Congressional Record, September 24, 1942, p. 7687.)

"Attorney General Tom Clark cited this group as subversive and Communist in lists furnished the Loyalty Review Board, which were released to the press on December 4, 1947, and September 21, 1948.

"Accordingly to the Daily Worker of March 5, 1946, Emspak was one of the sponsors of the Win-the-Peace Conference which was held in Washington, D. C., April 5-7, 1946.

"Win-the-Peace Conference or National Committee to Win the Peace was cited by Attorney General Tom Clark as subversive and Communist in lists furnished the Loyalty Review Board, which were released to the press on December 4, 1947, and September 21, 1948.

97

"Julius Emspak was one of the signers of the telegram sent to President Roosevelt by the Joint Committee for Trade-Union Rights in behalf of the International Fur and Leather Workers Union, defendants. (See Daily Worker of November 11, 1940, pp. 1 and 5.)

"The Special Committee on Un-American Activities cited the Joint Committee for Trade-Union Rights as a 'Communist front which, jointly with the International Labor Defense, supported and defended Communist Party leaders of the International Fur and Leather Workers Union when they were serving prison terms.' (Report dated March 29, 1944, p. 102).

"A letterhead, dated September 3, 1938, lists Julius Emspak as one of the sponsors of the American Relief Ship for Spain.

"The American Relief Ship for Spain was cited by the Special Committee on Un-American Activities as 'one of the several Communist Party front enterprises which raised funds for loyalist Spain (or rather raised funds for the Communist end of that civil war)' (Report, March 29, 1944, p. 102).

98 "Both a letterhead of September 28, 1939, and an undated circular list Emspak as a member of the labor advisory committee of the Consumers Union, an organization which was 'founded in the winter of 1935-36 and grew directly out of a strike at Consumers Research. The Communist Party looked upon Arthur Kallet, founder of the Consumers Union, as its chief representative in the party's effort to exploit the grievances of consumers' (Report 1311 of the Special Committee on Un-American Activities).

"In testimony of Mr. Walter S. Steele before the Committee on Un-American Activities, in July 1947, page 14, we find Julius Emspak listed as one of the initiators of the National Congress on Civil Rights on April 27-28, 1946, at which the Civil Rights Congress was born. In the committee's report on the Civil Rights Congress we find the following reference to Julius Emspak:

"'Member, initiating committee of Civil Rights Congress; cited by Louis F. Budenz as "Comrade Juniper," a secret member of the Communist Party, United States of America, in 1947; sponsor of the American Peace Mobilization and its successor, the Win-the-Peace Conference.'

"Attorney General Tom Clark cited the Civil Rights Congress as subversive and Communist in lists furn-

99 ished to the Loyalty Review Board, which were released to the press on December 4, 1947, and September 21, 1948. The congressional Committee on Un-American Activities cited the Civil Rights Congress as an organization formed in April 1946 as a merger of two other Communist-front organizations—International Labor Defense and the National Federation for Constitutional Liberties—

'dedicated not to the broader issues of civil liberties, but specifically to the defense of individual Communists and the Communist Party' and 'controlled by individuals who are either members of the Communist Party or openly loyal to it.' (Report No. 115, September 2, 1947, pp. 2 and 19.)

"Mr. Emspak is referred to on pages 145, 149, 151, 152, 153, 170, 172, 176, 195, 215, 217, 219 of Hearings Regarding Communism in Labor Unions."

Does that appear in that record and is that an accurate state of what was before the committee at that time?

Mr. Murray: Don't answer that.

Your Honor, that affords opportunity and occasion for me to make a further statement, if the Court will permit.

I object to this question. The obvious purpose of this question is for the defense, through the device of cross examining a witness who is giving testimony in regard to pertinency, to bring in defense evidence in their
100 support which will become properly an issue only when the defense begins its case.

The Government has a right in offering evidence to limit its offer. It is true on cross examination the defense can attack validity of the Government evidence, but it may not enlarge the Government evidence if it is omitting use of that evidence, which according to our proof, did not enter into the question of pertinency.

If I may draw a comparison there: If the Government were attempting to sustain the validity of an arrest without a warrant based upon probable cause, and the Government felt that it could support its position without introducing a particular item of information, which it desired to keep secret, the Government could properly limit its showing on probable cause to the extent of omitting any reference to that secret information.

If that were true, the defense could not then step in and attempt to extract from the witness on cross examination some reference to that secret information and then trying

to involve the Government in the position of not having evidence available.

Now, the purpose of this question is definitely not impeaching. If the answer to this question is responsive, it will serve another purpose than to support Government evidence of relevancy and pertinency.

101 The Government has not elected to make use of that evidence. It cannot have it forced upon its hands by the device of cross examining. It may limit its evidence and run the risk of its being ruled to be insufficient.

The defense has no right, I respectfully submit, through the device of cross examination on that evidence which is not impeaching, to involve the Government case with additional evidence that it has not chosen to develop.

Now, the purpose of this question is this: To show that the committee was in possession of information, which insofar as the committee was concerned could very well lead to incriminating questions being asked of this witness. That is not in the case yet.

That is a matter of defense, and therefore I submit that the defense ought not to be permitted to employ the device here of cross examining our witness by trying to develop affirmative evidence on the direct testimony.

I object to the question.

The Court: What is the purpose of this inquiry?

Mr. Scribner: It it please Your Honor, there are two major grounds on which I base the question.

The Court: Now, let us keep in mind the question. You have read from this report and are asking this witness if that is not actually the report of the committee. That is not the best evidence. The best evidence is what you

102 read from.

Mr. Scribner: I suppose the question is now whether or not that evidence can be introduced at this time, as was raised by Mr. Murray.

The Court: You haven't offered it.

Mr. Scribner: I want to have the witness now identify it, unless that is found to be completely unnecessary.

The Court: It doesn't need to be identified. It has already been identified by your stipulation.

Mr. Scribner: Very well. I will now offer that document or the excerpt from the document as read in evidence.

The Court: Is there any objection to that?

Mr. Murray: If this is a defense exhibit in support of the defense, there is no objection.

The Court: Of course, that is introducing a part of your defense, which means that the Court will hear no matters of law until you have concluded your defense.

You understand that?

Mr. Scribner: May I be heard on that? We also have another reason for having the document before the Court in this case, and that is that the witness testified with respect to the purpose of the hearing at which Mr. Enspak testified, and the exhibit which is now being offered tends to controvert the witness with respect to that purpose.

In other words, he talks about security measures
103 relating to industrial plants.

The Court: Well, the Court has heard no objection, and you may have a copy of this report marked as a defense exhibit. It will be received.

I just wanted you to understand the position of the Court that the Court will not entertain any questions of law until you put in your whole defense and rest.

Mr. Scribner: Very well, sir.

The Court: Just let that be marked, please.

The Court does not intimate by that that it will widen the scope of the examination of this witness.

Has that been marked?

Mr. Scribner: It is in the original stipulation.

Mr. Murray: May the clerk mark it in whatever form it is?

The Court: It is not well identified because you have only subtracted a part of that report.

Mr. Murray: But the part that has been offered concludes at the bottom of page 645?

Mr. Scribner: That is right. It is identified in the stipulation itself.

The Court: Only in part. But there is nothing to indicate the part which is included, when the hearings were held, or anything about it.

Mr. Scribner: Well, I propose to just give a de-
104 scription which I am sure Mr. Murray will agree is given on the particular exhibit itself, and that is Hearings Regarding Communist Infiltration of Labor Unions, Part I, Local 601, United Electrical, Radio, and Machine Workers of America before the Committee on Un-American Activities, House of Representatives, Eighty-first Congress, First Session, August 9, 10 and 11, 1949, pages 643 to 645.

I think we have indicated the part of the exhibit so it will be identified.

Mr. Murray: May I suggest, not all the way to the bottom of 645.

Mr. Scribner: That starts at 643, where we have the line "Mr. Tavenner."

The Court: Those are the pages that you have included here?

Mr. Scribner: That is right.

The Court: That will be known as Defendant's No. 1.

(Thereupon the document was received in evidence and marked Defendant's Exhibit No. 1.)

The Court: I think we ought to have these pages marked as Defendant's Exhibit 1. Just put a mark on them. That will identify them.

By Mr. Scribner:

Q. During the course of these hearings before a sub-
committee of the Un-American Activities Committee
105 on August 9th, 10th, and 11th, was there testimony before the committee regarding Mr. Emspak's political affiliations?

Mr. Murray: I am sorry. I was inattentive. May I have that question read?

The Court: Yes, read the question.

(The last question was read.)

A. It may depend upon what is meant by political associations.

By Mr. Scribner:

Q. Very well. Perhaps I can clarify that.

Was Mr. Emspak charged by a number of witnesses before the committee at that time of being a Communist and affiliated at that time with Communist activities? A. It is my recollection—

Mr. Murray (interposing): I think that is in line with my objection. If he wishes to make this witness his witness for that purpose, as he does the exhibit, I have no objection.

The Court: The objection is sustained.

Mr. Scribner: May I have a moment to confer? If it please Your Honor, I would be ready to adopt the witness as my witness in regard to that particular question because I think it would save the Court considerable time. I would have to call the same witness again in order to go into these particular matters.

The Court: I think it would be a little more orderly for you to complete your cross examination, and then at the appropriate time you may have him back. I will ask the witness to be available.

106

By Mr. Scribner:

Q. The hearings which were held both on December 5, 1949, and on August 9, 10 and 11, 1949, were all designed, incidentally, to investigate whether there were actually Communists in the United Electrical, Radio and Machine Workers of America; is that right?

Mr. Murray: I object for the same reason.

The Court: Yes, sustained.

Mr. Scribner: If it please Your Honor, if I may be heard for a minute, we go there to the purpose of the committee

as testified to by the witness. I am trying to establish that the purpose of the hearing was other than what has been testified to or in addition to what has been testified. Moreover, we think the Government put before the Court the general issue itself and has offered evidence by this witness to the effect that there was a refusal to answer questions, and I am addressing myself to these questions in my examination of the witness as well.

The Court: The Court thinks the objection is well taken.

By Mr. Scribner:

Q. In respect to the specific persons about whom
107 you questioned Mr. Emspak during the course of the hearing on December 5, 1949, did the committee have any information respecting these particular persons in any way whatsoever? A. I am certain that is true as to some of them.

Q. Well, will you kindly tell us with respect to which particular persons about whom questions were asked you did have some information, and please take them one by one, going through the counts of the indictment?

Joseph Persily referred to in Counts 1, 2 and 3, what information, if any, did the committee have about him at the time it asked the question of Mr. Emspak?

Mr. Murray: If the Court please, in line with my objection, the question in the present form is too general, and we ought to know the part of that information that the witness is being asked to give, in regard to whether that information is about his being a Communist or anything of that sort.

The interrogation gives no basis for going into whether they had such information, and the only information relevant to the witness's testimony is whether they have information that he was connected with the particular union, that the witness Emspak was being questioned about.

Mr. Scribner: The witness already testified that part of the inquiry was with respect to Communist infiltration of

labor unions, and that is what I am directing myself
108 to in these questions. It is presumed pertinency would be directly involved.

The Court: You are asking for knowledge had by the committee.

Mr. Scribner: Yes, indeed. That is right, sir.

The Court: Well, doesn't the report of the committee reflect that better than this witness could say?

Mr. Scribner: I guess that is the point because as the record stands now, they brought out no possible pertinency whatsoever in the asking of the question, and that is an essential element of the crime itself.

I am inquiring into the aspect of it, as to what information was had by the committee at the time it asked the question. It goes directly to the question of pertinency.

The Court: The Court thinks you are asking for secondary evidence. That report certainly would show the conclusions and the information had by the committee much better than a witness could recite.

Mr. Scribner: Well, the report may or may not have specific information with respect to each one. In other words, when the witness is asked by the committee: Do you know—

The Court: I misspoke myself. It is not only the report but it is the hearing.

Mr. Scribner: I am referring to the hearing.

109 The witness is asked, for instance, is he acquainted with Joseph Persily.

Now, that question could not have any possible pertinency to the hearing or to the jurisdiction of the committee itself in conducting these hearings, unless there was some information before this committee at the time it asked the question.

Now, I am inquiring in respect to that particular issue.

The Court: Aren't the hearings in evidence?

Mr. Scribner: They are in evidence, indeed.

The Court: Well, then, all you have to do it to point it out to the Court.

Mr. Scribner: Very well. I will be glad to do that at the appropriate time.

By Mr. Scribner:

Q. Prior to the time these hearings were actually held, and I am referring to the hearing of December 5, 1949, did the committee itself issue a public statement with respect to the purpose of the hearing? A. Not to my knowledge.

Q. Now, you recall that there was in fact a statement published with respect to the purpose of the hearing at or about that time? A. My only knowledge of that is what was stated by Mr. Emspak during the period of his
110 testimony. He referred to some statement having been published.

I hadn't seen it.

Q. Do you recall whether that was in connection with possible prosecution on the Taft-Hartley non-Communist affidavit? A. No, I don't recall any reference to that.

Q. Now, was Representative Harold H. Velde, a Republican member—I am sorry, a member of the House Un-American Activities Committee at the time this hearing was in effect? A. Yes, he was.

Q. Do you know whether Mr. Velde said in respect to Mr. Emspak, on the hearings which had been conducted before the committee—

Mr. Murray (interposing): Now, I think you have gone far enough and I am interrupting the question.

You are about to ask the witness whether he knows—

The Court (interposing): Suppose you let him complete the question.

Mr. Murray: I am sorry.

By Mr. Scribner:

Q. That Mr. Emspak was a high official of the United Electrical, Radio and Machine Workers of America, and that there had been witnesses before the committee who had identified him as a Communist Party member, and that

he was in effect a member of the movement to over-
111 throw the Government by force and violence.

Do you recall a statement made by him to that effect?

Mr. Murray: I object to that.

The Court: The objection is sustained. Apparently the hearings would be the best evidence of that.

Mr. Scribner: I am not referring to the hearings themselves. I am referring to something that occurred outside of the hearing, by a member of the committee himself.

The Court: Well, then the witness may answer, if he knows.

The Witness: You would have to refresh my recollection as to the time and place. I don't know.

By Mr. Scribner:

Q. Do you recall that being said on the floor of the House at the time that the debate was on whether or not a contempt citation should issue against Mr. Emspak?

The Court: Then the Congressional Record would show that.

Mr. Scribner: That is right.

Well, I think that there is a stipulation, that I referred to, by Mr. Murray to the effect that that statement would be an accurate statement.

Mr. Murray: I don't dispute the fact that the statement was made. My objections go to the relevancy.

The Court: Yes.

112 The Witness: Possibly I misunderstood the ruling. I thought the Court sustained the objection. If it was part of the Congressional Record, I may have read it.

The Court: Well, I understood Mr. Murray to say that he relaxed his objection as to that.

Mr. Murray: Yes, I make no objection on the ground of the form in which it is. I object to its relevancy.

The Court: He may answer.

The Witness: Excuse me. I do recall Representative Velde making a rather long statement on the floor of the House, and mentioning the name of Mr. Emspak and others, and I have possibly read the Congressional Record since that statement was made, but as to what the statement was, I can't recall from memory.

By Mr. Scribner:

Q. Do you recall whether there was any reference to Mr. Emspak ever being a Communist as such? A. No, I don't recall that he called him a Communist, if that is what you mean.

Mr. Murray: In view of the stipulation, I have no objection to counsel reading it.

Mr. Scribner: Very well. I will do that and ask it be received now.

"Julius Emspak is a high official in the ranks of the United Electrical, and Radio Workers. We heard a
113 number of witnesses who testified that Julius Emspak was a Communist Party member and very close to the leadership of the Communist Party. Those witnesses were all reliable, and they spoke of Mr. Emspak in terms of great respect, but they told the truth about it. I think there is no doubt at all but what the majority of our committee and a majority of this Congress, if we could read the testimony that we have concerning the subject of this resolution, would agree that he was a member of the great movement to overthrow our country by force and violence which originates in Moscow."

I would like to offer that statement in evidence.

The Court: I understand Mr. Murray agrees that that goes in as part of your case.

Is that correct, Mr. Murray?

Mr. Murray: Well, I understood he was trying to get it in as part of cross examination. That is the way I had it. If that is part of the defense, I don't object, and I have at no time resisted it on the basis of competency.

The Court: It will be received as part of the defense.

By Mr. Scribner:

Q. Mr. Tavenner, I will read you from the stipulation, Section 6 (o) which is an excerpt from the Congressional Record of August 10, 1950, and which as indicated by
114 Mr. Murray's stipulation is a true and accurate stipulation.

The Court: Well, the Court thinks you should cross examine this witness, and when you want to put something in from the Congressional Record, you should do it directly.

Mr. Scribner: Well, I did. I have it here. I am going to quote from it. It is an excerpt which was stipulated by Mr. Murray, and I shall not go beyond the excerpt, so it will be a cleaner and shorter record.

The Court: You don't have to ask the witness about it.

Mr. Scribner: Then I would like to offer in evidence the following statement from the Congressional Record.

The Court: Is there any objection to that as part of the defense case?

Mr. Murray: No.

Mr. Scribner: Now, this is a statement by Representative —

Mr. Murray (interposing): I will have to make an objection. I think it is inappropriate at this time to make it, but I would like to make a statement so that I won't be in the position of having waived any objection. I am going to make objection to the defense showing certain circumstances from which it will be assumed it indicated that the defendant was in fear or apprehension of criminal prosecution.

I am going to object to that unless it first be shown
115 that he made the claim. In other words, I think whether he made the claim, that has to be determined first, and I am not quibbling about the order of it.

The Court: Whether he invoked his privilege?

Mr. Murray: Yes, that is right. If he didn't invoke it, then the means by which he justifies it are irrelevant. I don't want to direct it to little things, now.

The Court: This excerpt will be received as part of the defense case.

Mr. Scribner: The particular question that I am relating to is not along this line. I would like to read it from the stipulation. This is the statement of Representative Francis Case.

By Mr. Scribner:

Q. He was a member of the committee? A. He was.

Mr. Scribner (reading): "For, in the main, our questions relate to the very points on which the 11 persons were convicted under the Smith Act, to wit, activity as Communists in advocating the violent overthrow of the Government or preparation for it."

I offer that statement in evidence, going directly to the question of the purpose of the committee, in cross examination of the witness.

The Court: Mr. Murray has not objected to it.

116 Mr. Murray: I do not but reserve the motion to strike it at an appropriate time.

Mr. Scribner: In view of the ruling of the Court, I have no further questions of Mr. Tavenner.

Mr. Murray: I have no further examination, and I have no further evidence to offer, if the Court please.

The Government rests.

The Court: Shall we excuse Mr. Tavenner then?

Mr. Murray: Unless Mr. Scribner wants him again as a defense witness.

The Court: Will you want him back?

Mr. Scribner: Yes, I will want him as a defense witness.

Will Your Honor grant us a recess at this time, because I understand the Government rests, and I would like to make a motion immediately after the recess.

The Court: I indicated that I would not hear a motion.

Mr. Scribner: Very well.

The Court: Until you have put in your entire case.

Mr. Scribner: I will be glad to do that.

The Court: Do you want him now or will you use him later?

Mr. Scribner: I would like to have him on the stand now, immediately.

The Court: Now, you become a defense witness.

117 Mr. Tavenner: Yes, sir.

Thereupon,

Frank S. Tavenner, Jr.

was called as a witness by the defendant and, being previously duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

By Mr. Scribner:

Q. Mr. Tavenner, in Defendant's Exhibit No. 1, which is an excerpt from the hearing held on August 9, 10, and 11, before the committee, there is reference to Report No. 1311 of the Special Committee on Un-American Activities, is there not? A. Well, that is probably correct but I haven't seen that exhibit.

Q. By the way, I will withdraw that question.

I think the simplest way to do it is to go through the stipulation because there is no question now about the authenticity and offer each and every item in evidence. That will be the cleaner way to do it.

I would like to offer Section 6 and 6 (a) of the stipulation. I would like to read that into the record, if the Court has no objection.

The Court: You may do that but it is already in the record.

Mr. Scribner: It is a document which appears in

118 the stipulation. This quote is not in the record.

The Court: But the stipulation is in the record with respect to all matters stated therein.

Mr. Scribner: Well, it is submitted only with respect to the accuracy of the record. I don't know whether Mr. Murray has any objection to the rest of it. If he has any

objection on any other ground, I think I will submit it in evidence.

The Court: Well, isn't this the situation: that the Court can take the stipulation and regard everything stated in there as true?

Mr. Murray: As true, but the parties have reserved the right to object to its admissibility on the ground that it is irrelevant.

I will make such objection in regard to this particular item, for instance.

The Court: Now, you are looking at No. 6?

Mr. Scribner: 6 (a) on page 3. I offer that particular portion in evidence at this time.

The Court: Explain where and what that is so I will understand it.

Mr. Scribner: In the document which is already in evidence, relating to the hearings before the committee in August, 1949, there are a number of pages referring to Mr. Emspak as a Communist. Report No. 1311 of the committee itself is specifically referred to in that report. That report was before the committee at the time, that is, in August, and I am now referring back to what it was that was in the report that relates directly to Mr. Emspak.

149

Report 1311 refers to certain charges theretofore made by the same committee with respect to Mr. Emspak, and I am trying to get the record to show we have all the charges by the committee against Mr. Emspak as a Communist prior to the time that he testified, all of which is a matter of public record, and Mr. Murray agrees that is for public sale and distribution.

The Court: What is the objection, Mr. Murray?

Mr. Murray: My objection is of a very fundamental sort. I have confidence that the Government's position is sound on the point that this defendant as a witness before that committee never did claim his privilege against self-incrimination.

150 The Court: He had a reason for claiming?

Mr. Murray: For claiming; yes. That is my position.

The Court: This will be received, of course. It will be subject to the question of law as to whether or not the privilege against self-incrimination was invoked.

Mr. Murray: Exactly.

The Court: By the witness.

Mr. Murray: Your Honor may want to receive the evidence to see whether it is subject to a motion to strike or you may want to hear our objection first; whichever the Court wishes, we will abide by.

The Court: I will receive it for any value attached.

Mr. Scribner: On that basis, may the rest be offered in evidence, because, obviously, it will depend on the Court's determination as to whether or not there was reasonable apprehension.

Mr. Murray: No objection for that limited purpose.

The Court: Those are the other exhibits to the stipulation?

Mr. Scribner: That is right.

The Court: They will be received upon the same terms, with the same understanding.

Mr. Scribner: I have no further evidence and no further questions.

The Court: (Addressing the witness) Then I
151 think you are free to go.

The Witness: Thank you very much.

Mr. Scribner: The defendant rests. Does Your Honor wish to hear a motion for acquittal at this time?

The Court: I think it may well be presented on its merits now.

Mr. Scribner: I will be glad to do that. I thought maybe Your Honor wanted to recess at this particular time.

The Court: No; I will hear from Mr. Murray.

283 UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

Criminal No. 1742-50

UNITED STATES OF AMERICA

vs.

JULIUS EMSPAK, *Defendant.*

Washington, D. C.,
Monday, February 26, 1951.

The above-mentioned case came on for further hearing at 10 o'clock a.m., on Monday, February 26, 1951, in the United States District Court for the District of Columbia, in the Courthouse, at Washington, D. C.

Before

Honorable F. Dickinson Letts, District Judge of the United States District Court for the District of Columbia.

Appearances:

Charles B. Murray, Esquire, Assistant United States Attorney, in behalf of the United States; and

David Scribner, Esquire, Allan R. Rosenberg, Esquire, and Arthur Kinoy, Esquire, on behalf on the defendant.

283A PROCEEDINGS

The Deputy Clerk of the Court: United States versus Julius Emspak.

Mr. Scribner: If it please Your Honor, this morning the defendant filed a formal motion of acquittal so that we have on record a formal motion.

The Court: Very well. The motion will be overruled.

(The Opinion of the Court follows on the next page of this transcript.)

284 OPINION OF THE COURT

The Court: The Court finds that the Honorable Morgan M. Moulder constituted and was a duly created subcommittee of the Committee on Un-American Activities of the House of Representatives before which the defendant was sworn as a witness on December 5, 1949; that as such witness the defendant refused to answer many questions which were pertinent to the question then under inquiry before such subcommittee.

The defendant now seeks to justify his refusal to answer such pertinent questions on the ground that his answers would have tended to incriminate him, thus asserting the privilege against self-incrimination guaranteed by the Fifth Amendment.

It becomes the duty of this Court to say from the evidence and upon the law whether the defendant asserted his presently-claimed constitutional right against self-incrimination at the time of his refusal to answer the several questions which are specified in the various counts of the indictment.

The inquiry is a mixed question of law and fact. It is necessary to consider the setting and the circumstances under which the defendant refused to answer the questions when they were propounded to him; the background of the committee investigation as shown by the record, and the trend the investigation had taken.

It is important to understand as clearly as possible the defendant himself, his attitude, the frame of his mind
285 and his intentions as they may be inferred from what he did and said.

The defendant was an experienced and capable executive. He has been the general secretary and a member of the executive committee of UE since the inception of that organization in 1936. At the committee hearings, he had the advice and counsel of an able attorney who accompanied him. It is reasonable to conclude that the defendant fully intended his examination should proceed and terminate as it actually did.

Almost from the beginning of his examination the defendant evinced his hostility toward the committee and exhibited his prejudices against its purposes and practices. He quickly made it apparent that his concern for the union was uppermost in his mind and seized the occasion to berate the committee and predict that it would attempt to harass the union, its leadership and its members. He announced that the line of questions which he had not yet heard goes against his grain as an American.

He lost no time in disputing the powers, the right and authority of the committee to inquire into his beliefs, his associations, or, as he stated it, anything else.

The defendant was asked if he knew Joseph Persily. He refused to make answer, and after much evasion seemed to base his refusal on his interest in what is going on these days, his aversion for the activities of the committee,
286 and his concern over hysteria which he envisions as a prevailing condition of the Congressional mind. At this juncture he said, "I think it is my duty to endeavor to protect the rights guaranteed under the Constitution, primarily the First Amendment, supplemented by the Fifth. This committee will corrupt those rights."

Upon inquiry he analyzed this by saying, "Your activities are designed to harm the working people in this country. Every action this committee has ever taken has done that."

Upon the responses which I have now quoted, and upon that alone, defense counsel base their contention that the defendant declared his constitutional privilege against self-incrimination.

I find nothing in the record which indicates that the defendant entertained the slightest fear or apprehension of federal prosecution. He expressed alarm lest the committee might find out things with reference to individuals in his organization and perhaps frame people for criminal prosecution.

He no doubt regarded himself as a representative of the union and its members. He thought he could not answer the committee's questions and maintain his present feeling on

the right of the committee to interrogate him concerning his private affairs and his associations.

The defendant was asked if he meant to say that
287 people in the union had information that would subject him to criminal prosecution. To that question, he answered "No."

The defendant was asked if it was his feeling that to reveal his knowledge of his associates would subject him to criminal prosecution. His answer was "No."

He then volunteered as follows: "I don't think this committee has a right to pry into my associations. That is my own position."

Later in the hearing the defendant, after refusing to answer many questions, expressed himself in these words, "I gave specific reasons why I felt I should not participate in this kind of questioning and I stand by that."

There followed some 30-odd questions which the defendant refused to answer. When defendant was asked, "Have you ever been affiliated with the National Federation for Constitutional Liberties?" the defendant refused to answer the question but volunteered as follows, "I answered it in the terms I did when I said: As far as my associations and affiliations are concerned, that is something that a committee of this kind should not pry into."

Near the end of the hearing, the defendant replied to a pertinent question, "I have no desire to express any opinion on my associations to this committee."

The defendant expressed his contempt for the committee when he said, "I further understand what the mo-
288 tives of this committee are, to establish a beautiful frame to hang people who try to comply with the law."

At a time in the course of the questioning when the defendant had refused to answer most of the questions recited in the indictment, Representative Moulder cautioned the defendant that his conduct disclosed a flagrant attitude toward the committee.

This Court concurs and subscribes to that view. The Congress is one of the coordinate branches of our Government, and it was the duty of the defendant to respond to the call of the Congressional Committee before which he appeared as a witness with due respect and in recognition of its dignity. As a citizen he was required by law to cooperate with truth and without evasion in preparing for needed legislation in the public interest.

He, as have all witnesses, had the right to claim his constitutional privilege against self-incrimination if he entertained reasonable apprehensions that his answers to questions asked of him would tend to subject him to federal prosecution.

The defendant failed to assert that right and revealed no such apprehension. Indeed, he disavowed any such fear. The plea of self-incrimination contemplates an honest and reasonable apprehension of prosecution and is not available simply as an avenue of escape for a witness who has
289 something to hide, or who wishes to protect others, or through pique refuses to furnish information in disregard of his duty, in defiance of a Congressional Committee, as a challenge to its powers and authority, or for distrust of its aims, its motives and its good faith.

Upon the whole case the Court finds the defendant guilty as charged. You will be committed for sentence and the case will be referred to the Probation Office for a pre-sentence report.

Mr. Scribner: Would the Court at this time entertain a motion to continue the defendant on bail pending sentence? The defendant, of course, will be available to this Court or to the Probation Officer, whoever it is, but he will appear promptly as Your Honor will indicate. The defendant is one of the leaders of a large union and will be, of course, available to the Court.

In addition to that, may I respectfully move for a new trial and arrest of judgment?

The Court: You may do that in a formal way.

Mr. Scribner: I shall do that, sir.

The Court: But the request that you first mentioned must be denied. I understand my duty requires me to commit the defendant.

Mr. Scribner: May I inquire when sentence will be
290 imposed?

The Court: It will be imposed shortly after the Probation Office concludes its work and files its report and when I have had a chance and reasonable opportunity to study the report.

Mr. Scribner: Thank you, sir.

I would like to inform the Court at this time that I intend to make appropriate application for bail pending sentence.

The Court: Yes.

Mr. Scribner: Thank you, sir.

The Court: Perhaps I did not make myself understood. What I meant was your motion for a new trial should be in written form, not necessarily your request to continue bail.

Mr. Scribner: I understand that, sir.

(Thereupon the instant hearing was concluded.)

291 UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

Criminal No. 1742-50

UNITED STATES OF AMERICA

vs.

JULIUS EMSPAK, *Defendant.*

Washington, D. C.,
Thursday, March 1, 1951.

The above-entitled case came on for further hearing at 3:30 o'clock p.m., on Thursday, March 1, 1951, in the United States District Court for the District of Columbia, in the Courthouse, at Washington, D. C.

Before

Honorable F. Dickinson Letts, District Judge of the United States District Court for the District of Columbia.

Appearances:

William Hitz, Esquire, Assistant United States Attorney, in behalf of the United States; and

Allan R. Rosenberg, Esquire, on behalf of the defendant.

292 PROCEEDINGS

The Court: Will counsel come to the bench a minute, please?

(Thereupon counsel approached the bench and the following occurred:)

Mr. Hitz: May I put my appearance on the record for the Government?

The Court: Yes.

Mr. Hitz: I am appearing here for the United States Attorney's office because Mr. Murray, who tried the case, is engaged in trial before Judge Morris. So I am here at the request of Mr. Murray.

The Court: Well, we are glad to have you here.

Mr. Rosenberg: Your Honor, Mr. Murray said he didn't request to be here when I told him about this.

The Court: Well, he has a good representative here.

Now, the reason I called you to the bench is this: We have a considerable number of counts in this indictment, and the statute requires imprisonment and a fine.

Now, what I propose to do is to impose the imprisonment on each count but permit them to run concurrently, but I am a little bit confused about the fine, and I am wondering if I do not have the power of imposing one fine to apply generally on the judgment of conviction.

Do you know?

293 Mr. Hitz: I don't know.

Mr. Rosenberg: Well, Your Honor, may I point out that in Judge Kirkland's opinion on a motion to dismiss the question of whether there was a multiple series of offenses charged or one offense charged was decided, or at least he adverted to it, saying it became critical only on the

issue of sentence, where we are now. I think in his decision he said they constituted one offense only.

Now, that opinion is part of the formal file. I am not sure I have it, but, if so, I will be glad to show it to you.

The Court: Do you have the file here?

The Deputy Clerk of the Court: No; I think Your Honor had it the other day.

The Court: Yes, I had it in my chambers.

Mr. Rosenberg: It seems to me that there is one offense only. Judge Kirkland cited a number of cases which we had given, and not that I cannot tell you about them, but I would rather have you read what Judge Kirkland said, rather than what I say about it. They are to the effect that in one continuous line of inquiry, such as this, in contempt cases in which some series of questions have been asked, the Court has found instead of there being seven, eight, or ten offenses, that there was one offense only because it was a continuous inquiry.

As I say, Judge Kirkland has already laid that
294 down in his opinion.

The Deputy Clerk of the Court: This is a copy of it, Your Honor.

The Court: Do you remember just where he speaks of that?

Mr. Rosenberg: I think I can find it.

Mr. Hitz: I might say the Government took the other view at that time, and we still do. We think each count is a separate offense.

The Court: Well, now, I have no difficulty about the counts, except for the fine.

Mr. Rosenberg: Have I selected the right part of it, Your Honor?

The Court: Yes.

Do you have some comment?

Mr. Hitz: Yes. I gathered from what you said, Your Honor, that you didn't plan to impose any sentence that would be greater than what would be imposed on any one count. Therefore, rather than to take any chance on the

sentence not running concurrently in respect to a fine, which is a question, I suggest that the sentence be imposed on the entire indictment as to jail and the fine, without regard to any particular count of the indictment.

The Court: A straight sentence?

Mr. Hitz: Yes.

295 The Court: What do we call that?

Mr. Hitz: A sentence on the indictment. I think it is a sentence on the indictment, and it would be supported by any single count.

The Court: I think I will do it that way.

Mr. Rosenberg: The maximum of the fine is a thousand dollars?

The Court: Yes, a thousand dollars.

Mr. Rosenberg: And the maximum penalty is one year?

Mr. Hitz: Either one year or twelve months.

The Court: I think it is one year. Let me see what it does say.

Punishable by a fine of not more than one thousand dollars nor less than one hundred, and imprisonment in the common jail for not less than one month nor more than twelve months.

Mr. Hitz: So it should be twelve months. I mean, it should be mentioned in months rather than parts of a year.

The Court: Yes, that is right.

All right, gentlemen.

(Thereupon counsel resumed their places in the courtroom and the following occurred:)

Mr. Rosenberg: I have some motions, Your Honor, of a formal nature.

The Court: Yes.

296 Mr. Rosenberg: For an arrest of judgment and for a new trial, which I have served upon my brother, and I would like to hand these up to you.

The Court: Yes. The Court will hear you if you wish to be heard.

Mr. Rosenberg: No, Your Honor.

The Court: Very well. Then the defendant's motion for arrest of judgment and the motion for a new trial will be overruled.

Mr. Rosenberg: I understand now that you are prepared to impose sentence?

The Court: Yes.

Mr. Rosenberg: May I be heard briefly, Your Honor?

The Court: Yes. Let the defendant stand, please.

Mr. Rosenberg: You have the probation report?

The Court: Yes.

Mr. Rosenberg: I might say I have no desire to go into any great length, but I just want to say a few words about this man and to bring to Your Honor's attention facts which may or may not be in the probation report.

Julius Emspak, is the leader of a large union. He is the founder or one of the founders of that union. He has spent all his adult life representing the interests of the people who work and who are members of that union and who have similar interests in the union.

297 When it was formed in 1936, it had relatively few members, and as I recall it, less than a few thousand, and few if any contracts with any employers. Today it is a union of approximately 300,000 people, having contracts with the largest employers, and having had contracts for many years with General Electric, Westinghouse, and with Sylvania, and many large employers, and having conducted its business for the benefit of the people it represents over a long period of time.

This man has been elected its secretary-treasurer for each of the last 14 years. He has been elected treasurer by overwhelming and sometimes unanimous vote, overwhelming majorities by delegates representing hundreds of thousands of people.

Now, the crime of which he has been convicted, Your Honor, is not a crime involving moral turpitude. It is not a crime which warrants, I submit, the imposition of the serious penalty which the law permits under this statute.

I ask Your Honor to take into account the fact that this man has led up to the time of this conviction an exemplary life, and I believe the probation report shows that he is a man of substance, a man who is a person of understanding and situation.

I don't say on conviction he should be given no sentence because the law requires, as I understand Your
298 Honor just read it, some sentence, but I do say that the conviction of his man should not carry the serious sentence which the law permits because I don't think in the light of all the circumstances, and Your Honor will recall in Your Honor's opinion, that if he had chosen to say or to make his assertion in some other way, he would have been entitled to the benefit of immunity from the transaction of refusing to answer.

Therefore, I ask Your Honor to take all these factors into account in imposing sentence.

The Court: Thank you, Mr. Rosenberg.

Julius Emspak, do you have anything to say to the Court?

The Defendant: No, Your Honor.

The Court: In addition to what your counsel has said?

The Defendant: No, Your Honor.

The Court: I have had occasion to read the report of the Probation Office, and I have first-hand knowledge of the case, and it now becomes my duty to impose the penalty upon the defendant.

Mr. Emspak, it is the judgment of the Court that you be sentenced to imprisonment in a common jail for a period of six months and that you pay a fine of $500.

My judgment rests upon the indictment as a whole.

Mr. Rosenberg: Your Honor, I now move the Court to admit the defendant to bail, if the Court pleases,
299 pending appeal.

The Court: The Court thinks it necessary to deny that request.

Mr. Rosenberg: Now, Your Honor, would you consider staying the execution of the sentence pending our applica-

tion, which we will file forthwith, or as soon as we can get it out of the typewriter, to the Court of Appeals?

The Court: Well, that is hardly consistent with what I have already done in this case. So that request must be denied.

Mr. Rosenberg: Would Your Honor then be good enough to sign the following order on motion, which I herewith submit, and that is to transmit the record of this case to the Court of Appeals in connection with this defendant's appeal, which I am filing as soon as I am able to leave this courtroom?

The Court: I think it is a little premature, isn't it?

Mr. Rosenberg: I must make a preliminary record, Your Honor, and I intend to designate the record this afternoon, since Your Honor is here, and I have had a similar order signed in the Quinn case.

This is the motion. Counsel has been served.

The Court: Mr. Rosenberg, I do not see your authority under Rule 39.

Mr. Rosenberg: You mean, in the local rules, Your
300 Honor? I can't point out the exact section of the Federal rules.

The Court: You cited Rule 39.

Mr. Rosenberg: Of the Federal rules.

The Court: Yes.

Mr. Rosenberg: Well, Your Honor, that refers to the civil rules, and the civil rules then permit the transfer of original exhibits over to the Court of Appeals.

The Court: Now, you say in your motion, Rule 39 of the Federal Rules of Criminal Procedure.

Mr. Rosenberg: That is right, Your Honor, and my recollection is that rule in turn refers to the preparation of the record in connection with the Federal Rules of Civil Procedure, and when you turn to the Rules of Civil Procedure, there is a provision for the transmission of the original records and exhibits to the appellate court. I know it is the practice and it is done in many cases. I have done it in a number of cases myself.

The Court: I do not see it there. Will you look at the rules? Perhaps you can find it for me.

Mr. Rosenberg: Well, Your Honor, in 39 (b), it says: The rules and practice governing the preparation and form of the record on appeal in civil actions shall apply to the record on appeal in all criminal proceedings except as otherwise provided in these rules.

301 The Court: Well, it says preparation of the record.

Mr. Rosenberg: And form.

I am asking Your Honor to sign what I believe to be the conventional order and the conventional motion to transmit the original exhibits from this Court to the Clerk of the Court of Appeals in connection with the appeal which I have here all signed and ready to file as soon as I leave the courtroom.

The Court: Well, I think I will have to wait until you perfect your appeal.

Mr. Rosenberg: Very well, sir.

The Court: Then I will be glad to look at it again.

Do you want these filed?

Mr. Rosenberg: May I have them back? I will refile them.

(Thereupon the instant hearing was concluded.)

Excerpts from Transcript of January 19, 1951

533 Mr. Scribner: If I might be permitted to make a suggestion, my own inclination would be at this time to make as an offer of proof the information con-

534 tained in my affidavit attached to the cases of Emspak, Matles, Fitzpatrick, Panzino, Raley, Tice, and Quinn. They are identical affidavits. Now, I imagine that the other parties here might go along on that as an offer of proof for all of them.

The Court: Can you be a little more specific on that proof? I might tell you, Mr. Scribner, in the early days when I first came to the bar, there was a prohibition against the Government employees serving on either petit

or grand juries, then there was an Act of Congress which was passed later and we are in that situation as also clarified, or whatever the expression might be, by the opinions which have recently come out of the Supreme Court. I read your affidavit very carefully in those matters. As I went through, I was looking for the thing I am now asking counsel to do, if you can make me a proffer of proof to show actual bias on the part of any of these Government employees serving on the Grand Jury.

Mr. Scribner: I would start my answer by saying—

The Court: In the old days, we used to challenge the array, if that was so, then we would have an individual poll.

Mr. Scribner: As I understand the term, actual bias has been accepted by the Supreme Court in both the Dennis and Frazier cases as that stated in the Wood case, where the Court in the Wood case said very specifically that they consider actual bias to be a constructive bias and if that can be proven, they will consider that to be actual
535 bias. As a matter of fact, they used the term "actual bias" in quotes, if Your Honor will recall. In support of that, while I would like to prepare for Your Honor a detailed and considered offer of proof, I would like to tell you generally now what it is we would offer to prove:

First, that there are ten Government employees on the Grand Jury which returned the indictments in these cases.

Secondly, that there are two additional members of the Grand Jury which returned these indictments, whose husbands were Government employees at the time they were sitting on the Grand Jury.

Three, that all of these Government employees were affected by the miasma of fear, using the words of the Supreme Court in the Dennis case, and I will be a little more specific about that in a moment.

Mr. Forer: And also the wives.

Mr. Scribner: And the wives. This fear was engendered by the application of the loyalty order, the cases involved

in the loyalty order, the investigations by the Federal Bureau of Investigation in respect to Government employees, and these Government employees specifically because we will show that every single Government employee was investigated for his loyalty by the F.B.I., by the investigations of the House UnAmerican Activities Committee, and by all other similar threats of investigations or actual investigations by other agencies of Government, all of which go to the question of the fear which these Government employees sitting on this Grand Jury could be reasonably expected to have in considering a case, or a series of cases, which in one way or another affect, at least in the mind of the prosecution or as it was presented to the Grand Jury, the question of Communist activities or associations.

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The Court: Very well.

Mr. Scribner: Now, I would like to ask leave of Your Honor to submit a specific offer of proof which will put this down on paper. I can do that very shortly.

The Court: We have an official reporter and it will be a matter of argument.

Mr. Scribner: To make certain, the offer of proof is essentially what appears in my two affidavits in the cases as I have already specifically mentioned.

The Court: The Court will note the proffer.

Now, Mr. Wright.

Mr. Forer: Your Honor please—

The Court: Mr. Forer.

Mr. Forer: Is that offer accepted on behalf of all, Your Honor?

The Court: That is what I announced, with no declining of it, it will be received as an offer.

Mr. Wright: Your Honor, with the assistance of Mr. Scribner and our position having been made clear, I have pointed out the law I feel is applicable, the evidence offered at the proper time, if Your Honor will grant us a hearing consistent with our motion for a hearing on that question, I think that covers my part of the

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argument. I therefore respectfully urge that the indictment be dismissed because of the illegal constitution of the Grand Jury; secondly, or in the alternative, that a proper hearing be granted pursuant to Rule 12 that evidence may be produced in court to show actual bias did exist, therefore the indictment was illegally returned.

* * * * * * * * * *

Counsel for Government, Mr. Hitz

604 Now, there was a question actual bias was disclosed. We do not have that here and we had the Dennis case holding that implied bias cannot be found in Government employment. The argument that was made by the defense counsel this morning with reference to the make-up of the grand jury had to do with facts the Government concedes, and they are this—the only one we concede is this: that there were 20 grand jurors who voted for the indictment in all but one of these cases, of them 10 were Government employees and 10 were not. We concede that to be true and that was stated in argument by one of counsel this morning. That same counsel went on to say that in addition to the 10 Government employees who voted for the indictment, I say all 20 did, but 10 were Government employees, there were two who had wives who were Government employees.

* * * * * * * * * *

624 Filed Feb 15 1951

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

Criminal No. 1742-50.

UNITED STATES OF AMERICA

v.

JULIUS EMSPAK.

Stipulation

It is hereby stipulated by the parties, through their respective counsel, as follows:

1. Pursuant to Public Law No. 601, Section 121, of the 79th Congress (Chapter 753—Second Session), and House Resolution 5 of the House of Representatives of the United States, 81st Congress, dated January 3, 1949, the House of Representatives did create the Committee on Un-American Activities.

2. (a) The Committee on Un-American Activities, as created and authorized by the House of Representatives through the enactment of Public Law 601, section 121, subsection Q(2), of the Seventy-Ninth Congress, and under House Resolution 5 of the Eighty-First Congress, caused to be issued a subpena to Julius Emspak, United Electrical, Radio and Machine Workers of America, 11 East Fifty-First Street, New York, N. Y. The said subpena directed Julius Emspak to be and appear before said Committee on Un-American Activities on November 29, 1949, at the hour of 10:30 a. m., then and there to testify.

(b) The said subpena was duly served on said Julius Emspak on November 6, 1949, at 11 East 51st Street, New York, N. Y.

(c) Thereafter, by telegram dated November 22, 1949, to said Julius Emspak, Chairman John S. Wood of the Committee on Un-American Activities, postponed the appearance of Julius Emspak until December 1, 1949, at 10:30 a. m. Thereafter and on November 28, 1949, by telegram to said Julius Emspak, Chairman John S. Wood of the Committee on Un-American Activities, postponed the appearance of Julius Emspak until December 5, 1949, at 10:30 a. m.

625 (d) Said Julius Emspak, the defendant herein, did appear before a Sub-committee of the said Committee on Un-American Activities on December 5, 1949 in Washington, D. C.

3. Stipulation Attachment No. 1, Report No. 2847 of the House of Representatives, 81st Congress, 2nd Session, is the report submitted by direction of the Committee on Un-

American Activities to the House of Representatives on August 10, 1950, and contains an accurate transcript of so much of the testimony given by the defendant before a Sub-committee of the said Committee on Un-American Activities as is set forth in said Report.

4. Stipulation Attachment No. 2, "Hearings Regarding Communist Infiltration of Labor Unions—Part II (Security Measures Relating to Officials of the UERMWA-CIO), Before the Committee on Un-American Activities, House of Representatives, 81st Congress, 1st Session, December 5 and 6, 1949, Published by the Government Printing Office", attached hereto and made a part hereof, constitutes an accurate transcript of all the testimony given before a Sub-committee of the Committee on Un-American Activities on December 5, 1949 in Washington, D. C.

5. The following is House Resolution No. 749 as agreed to by the House of Representatives on August 10, 1950:

Resolved. That the Speaker of the House of Representatives certify the report of the Committee on Un-American Activities of the House of Representatives as to the refusal of Julius Emspak to answer questions before the said Committee on Un-American Activities, together with all of the facts in connection therewith, under seal of the House of Representatives, to the United States Attorney for the District of Columbia, to the end that the said Julius Emspak may be proceeded against in the manner and form provided by law.

6. The documents noted below from which excerpts are set forth below are true and accurate documents as transcribed, compiled, published and issued by the respective Committee, or Sub-committee, of Congress, for public sale and distribution and the following excerpts therefrom are true and accurate excerpts from said documents:

626 (a) From House Report No. 1311, Report of the Special Committee on Un-American Activities on the CIO Political Action Committee, March 29, 1944, 78th Congress, 2nd Session:

(at p. 5) "In other words, the political views and philosophy of the Communist Party and of the CIO Political Action Committee coincide in every detail."

(at p. 5) "Typical of the Communist predominance in the CIO Political Action Committee was the roster of speakers at one of its meetings held in New York City, January 14-15, 1944. Among the speakers were . . . *Julius Emspak.*"

(at p. 34) "If an organization that features Donald Henderson, Michael J. Quill, Joseph Curran, Reid Robinson, Julius Emspak, Ruth Young, Ferdinand C. Smith, Grant Oakes, Lewis Merrill, and the like as its leaders, should, through the negligence of the American electorate ever achieve political power in the United States, there would be an end to the American form of government—with its three co-equal and independent branches—as we have known it from the beginning of our Republic. Such an end to our form of government is the aim of these Communist conspirators under the leadership of Sidney Hillman. These high positions in labor organizations and their pretended patriotism mask one of the most subversive movements this country has ever known."

(at p. 103) "One of the top men in the CIO Political Action Committee is Julius Emspak, secretary-treasurer of the United Electrical, Radio and Machine Workers of America (C. I. O.), and in this capacity he was present at a political action conference held at the Hotel Warwick in Philadelphia on July 18, 1943. He is now also editor of the U. E. News, official organ of the Union.

"Emspak's record as a Communist is established by his subservience to the line of the Communist Party on numerous issues, by his position of leadership in a Communist-controlled union and by the Communist character of the U. E. News, official organ of the United Electrical, Radio and Machine Workers of America, under his editorship."

(at p. 107) "Emspak is one of the outstanding leaders of the C. I. O. Political Action Committee and the host of

Communist functionaries in his union, the U. E. R. M. W. A. is energetically backing Sidney Hillman's movement to relegate the Congress of the United States to the role of a subservient tool of a minority Communist pressure group."

(b) From House Report No. 1115 of the Committee on Un-American Activities on Civil Rights Congress as a Communist Front organization, September 2, 1947, 81st Congress, 1st Session:

627 (at p. 14) "The character of the Civil Rights Congress is amply demonstrated by the Communist affiliations of its leading officers and supporters:

* * *

"Julius Emspak, member, initiating committee of Civil Rights Congress; cited by Louis F. Budenz as 'Comrade Juniper,' a secret member of the Communist Party, U. S. A. 1947; sponsor of the American Peace Mobilization and its successor, the Win-the-Peace Conference."

(c) From "Hearing Before a Special Sub-Committee of the Committee on Education and Labor, House of Representatives, 80th Congress, 2nd Session; Investigation of Communist Infiltration of UERMWA; Hearings Held at Washington, D. C. September 2, 28 and 29; Schenectady, N. Y. September 30 and October 1; New York, October 6, 1948:

(p. 1 and 2) "Mr. Kersten. The Hearing will please come to order. For the record, at this time, I wish to introduce a letter dated August 25, 1948, signed by the chairman of the whole Committee on Education and Labor, Mr. Fred Hartley, Jr., which letter, in substance, is the authority of this subcommittee to carry on with the hearings of this morning, appointing Congressman Carroll Kearns, John F. Kennedy, and myself as a subcommittee. It sets out in detail the authority and the basis for this hearing.

(The letter is as follows:)

Congress of the United States
House of Representatives,
Committee on Education and Labor,
Washington, D. C., August 25, 1948

"Hon. Charles J. Kersten,
House of Representatives, Washington, D. C.

Dear Mr. Kersten: By virtue of the authority vested in me as chairman of the Committee on Education and Labor of the House of Representatives, and pursuant to House Resolution 111 of the Eightieth Congress, first Session, I hereby appoint you as chairman of a special sub-committee of the Committee on Education and Labor. The other representatives and members of the Committee on Education and Labor whom I have appointed to serve with you are Messrs. Carroll D. Kearns and John F. Kennedy.

"You and the members of your subcommittee are hereby authorized and directed to conduct a thorough study and investigation to determine to what extent Communists have infiltrated into the United Electrical, Radio, and Machine Workers of America, CIO. You are directed to ascertain whether or not the objectives, methods and means used and proposed by Communist leaders in the United Electrical, Radio and Machine Workers of America, CIO, are in violation of any Federal statute, endanger peaceful industrial relations between employers and employees, jeopardize our free enterprise system, and threaten the security of our Government.

"You and the members of your subcommittee are
628 authorized to study and investigate any matter or subject coming within the jurisdiction of the Committee on Education and Labor under Rule XI (1) (g) of the Rules of the House of Representatives, relating to the effect of communism and the influence of Communists within the United Electrical, Radio, and Machine Workers of America, CIO.

"You are further directed to hold such public or executive sessions as you may deem advisable and you are

hereby authorized and designated by me to issue and have served such subpenas as may be necessary in this investigation.

"Upon the completion of your study and investigation, you are directed to prepare a report to the Congress with such recommendations for the regulation, control, and outlawing of communism and Communists from labor organizations and employment in industry as, in your judgment, the facts warrant.

Sincerely yours,

FRED A. HARTLEY, JR."

(d) From House Committee Report No. 15, dated December 14, 1948, "Interim Report of Sub-Committee of the House Committee on Education and Labor on the United Electrical, Radio and Machine Workers of America-CIO; Investigation of Communist Infiltration into Labor Unions which Serve the Industries of the United States:"

(at p. 8)

"Mr. Kersten. Do you believe that in that group you have considerable communistic elements?

"Mr. Carey. *I think they sacrifice the interests of the UE to promote the foreign policy of the Soviet Union; yes, sir.* (Italics in report)

"Mr. Kersten. When you say 'they,' whom do you mean?

"Mr. Carey. *Fitzgerald, Emspak, Matles, the executive board, the editor and his associates on the newspaper, the office staff, and the organizational staff.*" (Italics in report)

(at p. 17-18)

"Mr. Budenz, Conroy and Matthews testified as to Emspak's Communist connections. Mr. Budenz described in detail his (Budenz) attendance at the trial of Earl Browder at the Communist Party headquarters for a period of 3 days, during which time Emspak sat in attendance as a Communist at the trial."

(at p. 20)

"The overwhelming evidence at the hearings was that the following international officers of the UE were, at the times stated therein, either members of the Communist Party or under its control: James J. Matles, national organizer, Julius Emspak, secretary and treasurer . . . "

(e) From document prepared and released by the Committee on Un-American Activities, U. S. House of Representatives, Washington, D. C.: "100 Things You Should Know About Communism, Aug. 15, 1949:"

629 (at p. 88)

"81. Well, how do you know Communism has any power in any of these listed unions?

"Because of the men who hold positions of critical influence in them.

"Here are some examples of Communist officers:

Name	Union	Office * * *
Julius Emspak	United Electrical, Radio and Machine Workers of America, CIO"	Secretary-Treasurer

* * *

(f) From "Hearings Regarding Communist Infiltration of Labor Unions—Part I (Local 601, United Electrical, Radio and Machine Workers of America, CIO, Pittsburgh, Pa.); Hearings Before the Committee on Un-American Activities, House of Representatives, 81st Congress, 1st Session, August 9, 10, and 11, 1949:"

(at p. 541)

"Mr. Tavenner. Mr. Chairman, the purpose of this hearing is to inquire into the question of communist affiliation or association of certain members of Local 601 of the United Electrical, Radio and Machine Workers of America, CIO, which is engaged in work at industrial plants important to the national defense."

(at pp. 643-645): See Stipulation Attachment No. 3.
(at pp. 651-681): See Stipulation Attachment No. 4.

(g) Stipulation Attachment No. 5: The statements contained in Stipulation Attachment No. 5 constitute a true and accurate copy of reference exhibit, "Officials of the UERMWA With Communist or Communist Front Affiliations" (from "Owen Albert" to "Frank Ross"), submitted to House Committee on Education and Labor by J. B. Matthews during the course of hearings on September 29, 1948.

(h) The following named persons were listed in House Report No. 1311 of the Special Committee on Un-American Activities on the CIO Political Action Committee, March 29, 1944, as Communists or as affiliated with Communists or Communist Front Organizations; the persons listed are the same persons whose names are referred to in the respective counts of indictment herein:

Bernard, John T.—pp. 50, 53, 61, 80 (Count Nos. 50, 51)
Bjorkland, Allen—p. 62 (Count No. 43)
630 DeMaio, Ernest—pp. 62, 104 (Count No. 21)
Elconin, Wm. B.—p. 57 (Count No. 40)
Fiering, Henry—p. 104 (Count No. 22)
Foley, Thomas—pp. 50, 62 (Count No. 44)
Keller, Fred—pp. 40, 104 (Count No. 34)
Kirkendahl, K. M.—p. 104 (Count No. 24)
Logsdon, Robt. B.—p. 104 (Count No. 38)
Lustig, James—pp. 63, 104, 183 (Count Nos. 13, 14)
Majors, Louis T.—p. 51 (Count No. 53)
MacLeish, James—pp. 104, 64 (Count Nos. 57, 58)
MacNaughton, Robt.—p. 57 (Count No. 54)
Mauseth, Wm.—pp. 57, 64, 104 (Count No. 47)
Persily, Joseph—p. 137 (Count Nos. 1, 2, 3)
Sherer, Marcel—pp. 85f, 132 (Count No. 27)
Turner, Leo—pp. 58, 68 (Count No. 18)
Van Gelder, Ph.—p. 52 (Count No. 29)
Zagorin, Perez—p. 65 (Count No. 30)

(i) The following named persons were listed in House Report No. 1115 of the Committee on Un-American Activi-

ties on Civil Rights Congress as a Communist Front organization, Sept. 2, 1947, as Communists or affiliated with Communists or Communist Front Organizations; the persons listed are the same persons whose names are referred to in the respective counts of indictment herein:

Bittman, John—p. 31 (Count No. 39)
DeMaio, Ernest—p. 31 (Count No. 21)
Fiering, Henry—p. 32 (Count No. 22)
Garfield, Arthur—p. 32 (Count No. 20)
Harrison, Robt.—p. 32 (Count No. 25)
Haug, Fred—p. 32 (Count No. 16)
Hirschberg, Herbert—p. 32 (Count No. 23)
Keller, Fred—p. 32 (Count No. 34)
Kirkendahl, K. M.—p. 32 (Count No. 24)
Kirkwood, Robt.—p. 31 (Count No. 45)
Martinson, H. M.—p. 31 (Count No. 41)
MacLeish, James—p. 31 (Count Nos. 57, 58)
Mauseth, Wm.—p. 31 (Count No. 47)
Mitchell, John—p. 32 (Count No. 35)
Moyer, Ernest—p. 39 (Count No. 12)
Paradise, John—p. 32 (Count No. 55)
Santora, Wm.—p. 32 (Count No. 26)
Sheppart, Fred—p. 32 (Paul) (Count No. 36)
Slagle, L. S.—p. 32 (Count No. 37)
Smith, Philip—p. 32 (Count No. 49)
Sarti, Louis J.—p. 32 (Count No. 28)
Van Gelder, Ph.—p. 32 (Count No. 29)

(j) The following named persons were listed in Stipulation Attachment No. 5 as "officials of the UERMWA with Communist or Communist Front Affiliations;" the persons listed are the same persons whose names are referred to in the respective counts of indictment herein:

Berman, Irene—p. 3 (Count No. 42)
Besch, Peter—p. 3 (Count No. 52)
Bittman, John—p. 3 (Count No. 39)
Bjorkland, Allan—p. 3 (Count No. 43)
Brandt, Carl—p. 3 (Count No. 31)

Clough, Al—p. 4 (Count No. 32)
Garfield, Arthur—p. 7 (Count No. 20)
631 Harley, Hugh—p. 9 (Count No. 19)
Harrison, Robt.—p. 9 (Count No. 25)
Hirschberg, Herbert—p. 9 (Count No. 23)
Kirkendahl, K. M.—p. 10 (Count No. 24)
Majors, Louis T.—p. 12 (Count No. 53)
Martinson, H. M.—p. 12 (Count No. 41)
MacNaughton, Robt.—p. 12 (Count No. 54)
Mitchell, John—p. 13 (Count No. 35)
Newell, Chas.—p. 13 (Count No. 17)
Paradise, John—p. 14 (Count No. 55)
Persily, Joseph—p. 14 (Count Nos. 1, 2, 3)

(k) The following named persons were listed in Stipulation Attachment No. 4 as Communists or as affiliated with Communists or Communist Front Organizations; the persons listed are the same persons whose names are referred to in the respective counts of indictment herein:

Bernard, John T.—p. 654 (Count Nos. 50, 51)
DeMaio, Ernest—p. 657 (Count No. 21)
Elconin, Wm. B.—p. 658 (Count No. 40)
Fiering, Henry—p. 659 (Count No. 22)
Foley, Thos.——p. 660 (Count No. 44)
Goreli[illegible]ack—p. 661 (Count No. 11)
Haug, Fred—p. 662 (Count No. 16)
Keller, Fred—p. 663 (Count No. 34)
Kerstein, Morris—p. 664 (Count No. 15)
Kirkwood, Robt.—p. 664 (Count No. 45)
Lundgren, Lee—p. 666 (Count No. 46)
Lustig, James—p. 666 (Count Nos. 13, 14)
MacLeish, James—p. 670 (Count Nos. 57, 58)
Mauseth, Wm.—p. 669 (Count No. 47)
Rhine, Hank—p. 674 (Count No. 10)
Sherer, Marcel—p. 675 (Count No. 27)
Smith, Albert—p. 677 (Count Nos. 4, 5)
Van Gelder, Ph.—p. 678 (Count No. 29)
Zagorin, Perez—p. 680 (Count No. 30)

(l) From Report of the Committee on Un-American Activities to the U. S. House of Representatives, 80th Congress, 2nd Session, Dec. 31, 1948:

(at p. 2) "Early in 1947, the Committee adopted the following 8 point program which outlined the scope of its activities. This program furnishes an appropriate standard by which the work of the Committee should be judged.

. . .

"To spotlight the spectacle of having outright Communists controlling and dominating some of the most vital unions in American labor."

(at p. 22) "Indexes to public hearings and committee publications contain references to individuals contain 48,221 references to individuals and 8,593 references to organizations. These indexes and the committee's card files are consulted daily by authorized personnel from numerous Government agencies in connection with loyalty or security investigations. During the period January 22, 1947, to December 21, 1948, accredited representatives of 632 Government agencies made 5,975 visits to the Committee file room to secure information. The length of such visits varied from 20 to 30 minutes to an entire day, during which time files were checked for available information concerning 3 to 200 or more individuals.

"Visitors during this period were representatives of the following agencies: Federal Bureau of Investigation, Civil Service Commission, State Department, Treasury Department, United States Coast Guard, United States Secret Service, War Department, United States Air Force, Central Intelligence Agency, Navy Department, Labor Department, Federal Communications Commission, Securities and Exchange Commission, Commerce Department, Agriculture Department, Economic Cooperation, National Labor Relations Board, Federal Power Commission, Civil Aeronautics Board, War Assets Administration and Metropolitan Police Department."

(m) From "Citations by Government Agencies of Organizations and Publications Found to be Communist or

Communist Fronts", Dec. 18, 1948, prepared and released by the Committee on Un-American Activities, U. S. House of Representatives, Washington, D. C. (See Count 59 of Indictment):

(at pp. 71-72) "NATIONAL FEDERATION FOR CONSTITUTIONAL LIBERTIES

"1. Cited as subversive and Communist. (Attorney General Tom Clark, letters to Loyalty Review Board, released December 4, 1947, and September 21, 1948.)

"2. 'Part of what Lenin called the solar system of organizations, ostensibly having no connection with the Communist Party, by which Communists attempt to create sympathizers and supporters of their program. * * * [It] was established as a result of a conference on constitutional liberties held in Washington, D. C., June 7-9, 1940. * * * The defense of Communist leaders such as Sam Darcy and Robert Wood, party secretaries for Pennsylvania and Oklahoma, have been major efforts of the federation.' (Attorney General Francis Biddle, Congressional Record, September 24, 1942, p. 7687.)

"3. 'There can be no reasonable doubt about the fact that the National Federation for Constitutional Liberties—regardless of its high-sounding name—is one of the viciously subversive organizations of the Communist Party.' (Special Committee on Un-American Activities, Report, March 29, 1944, p. 50; also cited in Reports, June 25, 1942, p. 20; and January 2, 1943, pp. 9 and 12.)

"4. Among a 'maze of organizations' which were 'spawned for the alleged purpose of defending civil liberties in general but actually intended to protect Communist subversion from any penalties under the law.' (Congressional Committee on Un-American Activities, Report No. 1115, Sept. 2, 1947, p. 3.)

633 "5. 'One of the most important Communist-front organizations in the United States. While following the Communist Party line meticulously the organization has been helpful to Communists who wish to evade and defy

Government agencies investigation subversive activities.' It 'recently' combined with International Labor Defense and the Metropolitan Interfaith and Interracial Coordinating Council of New York to form the Civil Rights Congress. (California Committee on Un-American Activities, Report, 1948, pp. 201 and 327.)

(n) From "Citations by Government Agencies of Organizations and Publications Found to be Communist or Communist Fronts, Dec. 18, 1948, prepared and released by the Committee on Un-American Activities, U. S. House of Representatives, Washington, D. C. (See Count 60 of Indictment):

(at p. 26)

"CIVIL RIGHTS CONGRESS

"1. Cited as subversive and Communist. (Attorney General Tom Clark, letters to Loyalty Review Board, released December 4, 1947, and September 21, 1948.)

"2. Cited as an organization formed in April 1946 as a merger of two other Communist-front organizations (International Labor Defense and the National Federation for Constitutional Liberties); 'dedicated not to the broader issues of civil liberties, but specifically to the defense of individual Communists and the Communist Party' and 'controlled by individuals who are either members of the Communist Party or openly loyal to it.' (Congressional Committee on Un-American Activities, Report No. 1115, Sept. 2, 1947, pp. 2 and 19.)

"3. A 'Communist-dominated organization of comparatively recent origin.' (California Committee on Un-American Activities, Report, 1947, p. 187.)"

(o) From Congressional Record, Vol. 96, No. 158, August 10, 1950, at p. 12447, by Rep. Francis Case:

"The gentleman from New York [Mr. Marcantonio] said that Congress cannot investigate where it cannot legislate, but the court of appeals in upholding the convictions under the Smith Act certainly found that there the Congress

could legislate. If it could legislate there, certainly we have the right to try to determine whether clear and present danger exists in our inquiries of these witnesses. For in the main, our questions relate to the very points on which the 11 persons were convicted under the Smith Act, to wit, activity as Communists in advocating the violent overthrow of the Government or preparation for it.

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"If the questions that were asked in this instant case, this Emspak case, can be refused on the grounds which Emspak offered, then the committee cannot carry out the functions assigned to it by the Congress."

(p) From Congressional Record, Vol. 96, No. 158, August 10, 1950, at p. 12444, by Rep. Harold H. Velde:

"Mr. Speaker, I have a great deal of respect for the legal ability of the gentleman from New York [Mr. Marcantonio], but I cannot agree with him that the Estes case which he discussed is in point at all. In the first place, as the gentleman from Pennsylvania mentioned, that case was before a deportation court. This case involves a congressional committee hearing. I doubt very much whether a congressional committee or the entire Congress has a right to incriminate anyone. Anything that can be said before a committee cannot be used against the witness later in any kind of proceeding except in perjury cases.

"So I can see no similarity at all between the cases of Estes and Julius Emspak. Julius Emspak is a high official in the ranks of the United Electrical and Radio Workers. We heard a number of witnesses who testified that Julius Emspak was a Communist Party member and very close to the leadership of the Communist Party. Those witnesses were all reliable, and they spoke of Mr. Emspak in terms of great respect, but they told the truth about it. I think there is no doubt at all but what the majority of our committee and a majority of this Congress, if we could read the testimony that we have concerning the subject of this resolution, would agree that he was a member of the great

movement to overthrow our country by force and violence which originates in Moscow." * * *

(q) From "Hearings Before Un-American Activities Committee, 81st Congress, 1st Session, Regarding Communist Infiltration of Radiation Laboratories, etc., Vol. 1, April 22, 26, May 25, June 1 and 14, 1949; statement of Chairman Wood:

(at p. 297)

"On the question of your right to refuse to answer, if you feel that an answer to that question would subject you to some criminal prosecution, that you would endanger your own safety and personal liberty by an answer to that question, you have a right to refuse because the Constitution protects people from giving testimony that would tend to incriminate them and you would have a right to refuse to answer for that reason."

7. The following statutes were in force and effect on and prior to December 5, 1949:

Smith Act 18 USC 2385

False Claims Act 18 USC 1001 (formerly Sec. 35(a) of the Criminal Code)

Federal Conspiracy Act 18 USC 371

635 Taft-Hartley Law 29 USC 159(h)

(Labor-Management Relations Act, 1947, Sec. 9(h)

8. Prior to December 5, 1949, Communists were indicted for violation of the Smith Act and conspiracy to violate the Smith Act and were convicted of conspiracy to violate the Smith Act, which said actions were widely reported to the public at large through the press, radio and in other ways. Stipulation Attachment No. 6 is a true and accurate copy of pages 35, 73, 35-75 from the transcript of the trial in the case of U. S. v. Dennis (indictment for conspiracy to violate the Smith Act) on March 25, 1949.

9. (a) Stipulation Attachment No. 7 is a true and accurate copy of Form NLRB 1081, Affidavit of Non-Communist Union Officer, affidavit published and issued by the National Labor Relations Board.

(b) On October 14, 1949, Julius Emspak, the defendant herein, filed forms NLRB 1081 and same was filed with the National Labor Relations Board at or about the date of signing.

(c) After the filing of said non-Communist affidavits by Julius Emspak with the National Labor Relations Board and prior to Dec. 5, 1949, Robert Denham, then General Counsel of the National Labor Relations Board, or his agents or representatives, referred said affidavits to the U. S. Department of Justice for investigation as to whether there was a violation of the Federal laws.

10. Stipulation Attachment No. 8 is a true and accurate copy of a news item appearing in the New York Times, November 23, 1949, under the byline of Louis Stark with the headline: "Justice Action Due on Non-Red Oaths; Grand Jury May Get Cases—U. S. Reported Not Waiting for High-Court Ruling."

11. Stipulation Attachment No. 9 is a true and accurate copy of a news item appearing in the New York Times, November 17, 1949 headlined "House Group Calls Two UE Leaders."

636 12. The defendant, Julius Emspak, is the same person as the Julius Emspak referred to in the documents and information described in this Stipulation and Stipulation Attachments.

13. That the contents of the documents or the information referred to in paragraphs 6(c), 6(d), 6(j) and 8 were in the possession of or were known to the House Committee on Un-American Activities or its representatives on and before December 5, 1949.

14. That at the time the defendant testified before the subcommittee of the Committee on Un-American Activities of the House of Representatives the following members of the House constituted the full Committee on Un-American Activities: John S. Wood, Chairman, of Georgia, Francis E. Walter, of Pennsylvania, P[illegible] P. Harrison, of

Virginia, John McSweeney, of Ohio, Morgan M. Moulder, of Missouri, Richard M. Nixon, of California, Francis Case, of South Dakota, Harold H. Velde, of Illinois, and Bernard W. (Pat) Kearney, of New York.

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CHARLES B. MURRAY
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ALLAN R. ROSENBERG
Attorneys for Defendant

February 15, 1951

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638 **Stipulation Attachment No. 1**

HOUSE OF REPRESENTATIVES

81st Congress 2d Session Report No. 2847

PROCEEDINGS AGAINST JULIUS EMSPAK

August 10, 1950—Ordered to be printed

Mr. Wood, of Georgia, from the Committee on Un-American Activities, submitted the following

REPORT

CITING JULIUS EMSPAK

The Committee on Un-American Activities, as created and authorized by the House of Representatives through the enactment of Pubic Law 601, section 121 subsection Q (2), of the Seventy-ninth Congress, and under House Resolution 5 of the Eighty-first Congress, caused to be issued a subpena to Julius Emspak, United Electrical, Radio, and Machine Workers of America, 11 East Fifty-first Street, New York, N. Y. The said subpena directed

Julius Emspak to be and appear before said Committee on Un-American Activities on November 29, 1949, at the hour of 10:30 a. m., then and there to testify touching matters of inquiry committed to said committee, and not to depart without leave of said committee. The subpena served upon said Julius Emspak is set forth in words and figures, as follows:

By authority of the House of Representatives of the Congress of the United States of America, to Alvin W. Stokes. You are hereby commanded to summon Mr. Julius Emspak, to be and appear before the Subcommittee on Un-American Activities of the House of Representatives of the United States, of which the Honorable John S. Wood is chairman, in their chamber in the city of Washington, room 226, Old House Office Building, on Tuesday, November 29, 1949, at the hour of 10:30 a. m. then and there to testify touching matters of inquiry committed to said committee; and he is not to depart without leave of said committee. Herein fail not, and make return of this summons. Witness my hand and the seal of the House of Representatives of the United States at the city of Washington, this 1st day of November 1949.

JOHN S. WOOD, *Chairman.*

Attest:

[SEAL] RALPH R. ROBERTS,
Clerk, United States House of Representatives.

639 The said subpena was duly served as appears by the return made thereon by Alvin W. Stokes, who was duly authorized to serve the said subpena. The return of the service by the said Alvin W. Stokes, being endorsed thereon, is set forth in words and figures, as follows:

Served November 16, 1949, 5:10 p. m., to UE offices 11 East Fifty-first Street, New York City.

ALVIN W. STOKES.

On November 22, 1949, a telegram was sent to Mr. Julius Emspak which is set forth in words and figures, as follows:

WASHINGTON, D. C., *November 22, 1949.*

MR. JULIUS EMSPAK,
United Electrical, Radio, and
Machine Workers of America,
11 East Fifty-first Street, New York, N. Y.:

Your appearance before the Committee on Un-American Activities is postponed until December 1, 1949, at 10:30 a. m. Subpena served upon you on November 16 continues in force and effect.

JOHN S. WOOD, *Chairman.*

On November 28, the following telegram was sent to Mr. Julius Emspak, which is set forth herein in words and figures, as follows:

WASHINGTON, D. C., *Novemeber 28, 1949.*

MR JULIUS EMSPAK,
United Electrical, Radio, and
Machine Workers of America,
11 East Fifty-first Street, New York, N. Y.:

Your appearance before the Committee on Un-American Activities is postponed until December 5, 1949, at 10:30 a. m. Subpena served upon you on Novemebr 16, continues in force and effect.

JOHN S. WOOD, *Chairman.*

The said Julius Emspak, pursuant to said subpena and in compliance therewith, appeared before the said committee to give such testimony as required under and by virtue of Public Law 601, section 121, subsection Q (2), of the Seventy-ninth Congress, and under House Resolution 5 of the Eighty-first Congress. The said Julius Emspak having appeared as a witness and having been asked questions, namely:

Mr. Emspak, are you acquainted with Joseph Persily?

In what capacity is Joseph Persily associated with the UE at this time?

Is he an organizer in the UE?

Are you acquainted with Albert Smith?

Is he employed by the UE?

Mr. Emspak, has Max Helford ever been connected with UE as a field organizer?

Do you know them or not?

Is Max Helford at the present time a field organizer for the UE?

Was Phil Saba originally from local 155?

And is he now a field organizer for the UE in district 1?

Is Hank Rhine presently an international representative of the UE?

Is Jack Gorelick now affiliated with the UE?

Is Ernest Moyer a field organizer for UE in the Easton area?

Do you know James Lustig?

Is he an international representative of UE?

Is Morris Kersten an international representative of UE?

Is Fred Haug an international representative of UE?

Is Charles Newell an international representative of UE?

Is Leo Turner a field organizer in district 6?

Is Hugh Harley a field organizer for UE?

Is Arthur Garfield an international representative of UE?

Is Ernest DeMaio presently an international representative of UE?

Is Henry Fiering a field organizer for the UE?

Is Herbert Hirschberg an international representative of UE?

Is K. M. Kirkendahl a field organizer of the UE?

640 Is Robert Harrison a field organizer of the UE?

Is William Santora a field organizer of the UE?

Is Marcel Scherer an international representative of the UE?

Is Louis L. Sorti a field organizer of the UE?

Is Philip V. Gelder an international representative of the UE?

Is Perez Zagorin a field organizer of the UE?

Is Carl Brandt connected or associated in any way as an international representative or otherwise with UE?

Is Al Clough a field organizer?

Is Kermit Kirkendahl a field organizer?

Is John Thomas a field organizer?

Is Fred Keller a field organizer with UE?

Is John Mitchell a field organizer?

Is Fred Sheppart a field organizer?

Is L. B. Slagle a field organizer with UE?

Is Martin Sramek a field organizer with UE?

Is Robert B. Logsdon an international representative of UE?

John Bittman is a field organizer, is he not?

Is William Elconon an international representative?

Is H. M. Martinson a field organizer?

Is Irene Berman an international representative?

Is Allan Bjorklund a field organizer?

Is Thomas Foley a field organizer?

Is Robert Kirkwood an international representative?

Is Lee Lundgren an international representative?

Is William Mauseth a field organizer?

Is William Sheehan a field organizer?

Is Phillip H. Smith an international representative with the UE?

Do you know John T. Bernard?

Is he a field organizer for the UE in the Chicago district?

Is Peter Besch an international representative?

Is T. Louis Majors an international representative?

Is Robert McNaughton a field organizer?

Is John Paradise a field organizer?

Is Nick Tomasetti a field organizer?

Mr. Emspak, have you ever been affiliated with the National Federation for Constitutional Liberties?

Mr. Emspak, have you ever been associated with the Civil Rights Congress?

Louis Budenz was former editor of the Daily Worker, was he not?

Are you acquainted with James MacLeish?

Is he now president of district 4, United Electrical, Radio, and Machine Workers of America?

Are you acquainted with Salvatore M. Vottis?

On July 25, 1947, Mr. Emspak, Mr. Vottis, in sworn testimony before this committee, stated that he had attended fraction meetings of the Communist Party along with you and other members of the UE. Do you deny or affirm the statement made by Mr. Vottis?

Mr. Emspak, Mr. Vottis also testified you attended Communist Party meetings held in his home in Schenectady, N. Y. Do you deny or affirm that statement?

At this time are you a member of the Communist Party?

Were you a member of the Communist Party at any time before you signed the affidavit?

Have you ever paid Communist Party dues?

Have you ever signed an application to join the Communist Party?

Have you ever registered as a member of the Communist Party?

Did you, as a member of the Communist Party attend the trial of Earl Browder at Communist Party headquarters in New York City?

Which questions were pertinent to the subject under inquiry, refused to answer such questions; and as a result of said Julius Emspak's refusal to answer the aforesaid questions, your committee was prevented from receiving testimony and information concerning a matter committed to said committee in accordance with the terms of the subpena served upon the said Julius Emspak.

The record of the proceedings before the committee on December 5, 1949, during which Julius Emspak
641 refused to answer the aforesaid questions pertinent to the subject under inquiry is set forth in fact as follows:

The subcommittee of one met, pursuant to call, at 3:30 p. m. in room 226, Old House Office Building, Hon. Morgan M. Moulder, presiding.

Committee member present: Hon. Morgan M. Moulder.

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Mr. Moulder. The committee will come to order. Let the record show that on November 8, 1949, the Honorable John S. Wood, Chairman of the Committee on Un-American Activities, ordered, authorized and directed Morgan M. Moulder, a member of this committee, as a subcommittee thereof, to hold, conduct, and preside over hearings scheduled for this day.

* * * * * * * * * *

Mr. Moulder. You solemnly swear the testimony you are about to give will be the truth, the whole truth, and nothing but the truth, so help you God?

Mr. Emspak. I do.

Mr. Tavenner. Mr. Emspak, are you acquainted with Joseph Persily?

Mr. Emspak. Mr. Chairman, I would like to say something at this point.

Mr. Moulder. You mean in response to the question?

Mr. Emspak. I will answer the question; yes, in response to the question and as a statement of position.

What I say revolves around two points, one organizationally and another as an individual. Organizationally, my job as an officer of this union is to represent the interest of the membership as they determine it at the annual conventions and at other means they have of getting together and expressing themselves. My job is to administer that aspect to the best of my ability, using one very simple measuring stick, and that is: Does a given policy or action contribute to the well-being of the membership, individually and collectively?

As an individual I would like to say one thing, and that is this: The line of questioning that counsel is developing

now is a line that has been used on numerous occasions by this committee and other congressional committees in an attempt to harass the union, its leadership, and its members. It is a line of questioning that goes against my grain as an American. I was born in this country. Everything I am—

Mr. Moulder. How long will this statement take, Mr. Emspak?

Mr. Emspak. About two or three more minutes.

Mr. Moulder Proceed.

Mr. Emspak. Everything I am, I owe to the rich heritage and tradition of this country. I do not believe that a committee of this kind, especially in view of the recent record of this committee where it stooped to interfere in the partisan affairs of a local union, or any congressional committee, because of the rich tradition of this country which, if not perverted, will lead to a greater and better country—I don't think a committee like this or any subcommittee has a right to go into any question of my beliefs, my associations, or anything else. I have a couple of kids. They have a stake in this country too.

Mr. Moulder. I want to give you full opportunity to express yourself in answer to the question, but you are making an oration now.

Mr. Emspak. It is not an oration. It happens to be a very profound personal feeling.

Mr. Moulder. What is the question?

Mr. Tavenner. The question is: Are you acquainted with Joseph Pesily?

Mr. Moulder. How do you spell that?

Mr. Tavenner. P-e-r-s-i-l-y.

Mr. Emspak. Because I have a stake in this country—

Mr. Moulder. You are not answering the question. He asked you if you are acquainted with this man.

Mr. Emspak. I will answer it.

Mr. Moulder. Are you or not?

Mr. Emspak. I was on the verge of answering it.

Mr. Moulder. If you have any explanation to make you will be permitted to do so after you answer the question.

Mr. Emspak. Because of my interest in what is going on these days, because of the activities of this committee—

Mr. Moulder. Are you going to answer the question?

Mr. Emspak. Because of the hysteria, I think it is my duty to endeavor to protect the rights guaranteed under the Constitution, primarily the first amendment, supplemented by the fifth. This committee will corrupt those rights.

642 Mr. Moulder. Do do you think it corrupts you to answer the question?

Mr. Emspak. I certainly do.

Mr. Moulder. Why does it corrupt you?

Mr. Emspak. Your activities are designed to harm the working people of this country. Every action this committee has ever taken has done that. You interfered last summer in the election of a local union at the request of a priest. You know that. You dragged down the prestige of this country.

Mr. Moulder. You are not going to take over this committee

Mr. Emspak. I don't want to.

Mr. Moulder. And your statements are preposterous. The purpose of this committee is to expose communism as it exists in this country. What is the question?

Mr. Tavenner. Are you acquainted with Joseph Persily?

Mr. Emspak. For the reasons I stated before I answered it.

Mr. Moulder. Then you refuse to answer the question?

Mr. Emspak. No. I answered it.

Mr. Tavenner. Are you or are you not acquainted with Joseph Persily?

Mr. Emspak. I answered the question.

Mr. Tavenner. Your replies are a refusal to comply with the request to answer it?

(Witness confers with his counsel.)

Mr. Moulder. The record will reveal that you have not answered the question.

Mr. Emspak. I have answered it to the best of my ability under the circumstances.

Mr. Moulder. Any further questions?

Mr. Tavenner. Yes. In what capacity is Joseph Persily associated with the UE at this time?

Mr. Emspak. It is the same question over again. I will give the same answer.

Mr. Tavenner. Is he an organizer in the UE?

Mr. Emspak. Mr. Chairman, it is the same question.

Mr. Tavenner. You refuse to answer that?

Mr. Emspak. I answered it.

Mr. Tavenner. Are you acquainted with Albert Smith?

Mr. Emspak. The same answer applies to that.

Mr. Tavenner. In other words, you are refusing to answer whether you are acquainted with him or not?

Mr. Emspak. I have answered the question as I see the answer.

Mr. Tavenner. Is he employed by UE?

Mr. Emspak. Mr. Chairman, I answered the question.

Mr. Moulder. Could you tell us who those people are, Mr. Counsel?

Mr. Emspak. Excuse me, please.

(Witness confers with his counsel.)

Mr. Tavenner. Joseph Persily and Albert Smith are the two persons whose names were mentioned.

Mr. Moulder. Who is Joseph Persily?

Mr. Tavenner. I thought he was connected with the UE, but I am unable to understand from the witness what the connection is, if any.

Mr. Moulder. Do our records reveal who he is?

Mr. Tavenner. I do not know whether they do or not, Mr. Chairman.

Mr. Emspak, has Max Helford ever been connected with UE as a field organizer?

Mr. Emspak. Mr. Chairman, on these question, which are all essentially the same, of course when this hearing was announced according to the press reports, at least, it was announced because this committee presumably was interested in finding out things with reference to individuals in our organization by using whatever means it has at its disposal, and for the purpose of trying to perhaps frame people for possible criminal prosecution.

I don't see how or why any individual should be subjected to that kind of questioning here if he is going to maintain, you know, his feelings on these questions, and I tried to express the feeling before when you interruped me. I just don't intend, as I said then, to be a party to any kangaroo court proceedings of this committee or any other congressional committee. I think I have the right to reserve whatever rights I have in that respect to whatever appropriate bodies may be set up to deal with questions that come up.

Mr. Moulder. Do you mean to say you have people in your organization who have information that would subject you to criminal prosecution?

Mr. Emspak. No; I don't, Mr. Chairman. As a basic proposition—and it has worked over the years and over the last few months as far as this committee is concerned—a slick job—

643 Mr. Moulder. Do you know them or not?

Mr. Emspak. That does not concern this committee at all.

Mr. Moulder. Is it your feeling that to reveal your knowledge of them would subject you to criminal prosecution?

Mr. Emspak. No; I don't think this committee has a right to pry into my associations. That is my own position.

Mr. Tavenner. Is Max Helford at the present time a field organizer for the UE?

Mr. Emspak. Mr. Chairman, that is repetition of basically the same question, and the same answer stands.

Mr. Tavenner. Was Phil Saba originally from local 155?

Mr. Emspak. I answered that question.

Mr. Tavenner. And is he now a field organizer for the UE in district 1?

Mr. Emspak. I answered that question and that is the only answer I will give on any of my associations, for the reasons stated.

Mr. Tavenner. Is Hank Rhine presently an international representative of the UE?

Mr. Emspak. Same answer.

Mr. Tavenner. Is Jack Gorelick now affiliated with the UE?

Mr. Emspak. Same answer.

Mr. Tavenner. Is Ernest Moyer a field organizer for UE in the Easton area?

Mr. Emspak. Same answer.

Mr. Tavenner. Do you know James Lustig?

Mr. Emspak. Same answer.

Mr. Tavenner. Is he an international representative of UE?

Mr. Emspak. We can go on endlessly like this I suppose, but the same answer holds.

Mr. Tavenner. Is Morris Kersten an international representative of UE?

Mr. Emspak. Same answer.

Mr. Tavenner. Is Fred Haug an international representative of UE?

Mr. Emspak. Same answer.

Mr. Tavenner. Is Charles Newell an international representative of UE?

Mr. Emspak. Same answer.

Mr. Tavenner. Is Leo Turner a field organizer in district 6?

Mr. Emspak. Same answer.

Mr. Tavenner. Is Hugh Harley a field organizer for UE?

Mr. Emspak. Same answer.

Mr. Tavenner. Is Arthur Garfield an international representative of UE?

Mr. Emspak. Same answer.

Mr. Tavenner. Is Ernest De Maio presently an international representative of UE?

Mr. Emspak. Same answer.

Mr. Tavenner. Is Henry Fiering a field organizer for the UE?

Mr. Emspak. Same answer.

Mr. Tavenner. Is Herbert Hirschberg an international representative of UE?

Mr. Emspak. Same answer.

Mr. Tavenner. Is K. M. Kirkendahl a field organizer of the UE?

Mr. Emspak. Same answer.

Mr. Tavenner. Is Robert Harrison a field organizer of the UE?

Mr. Emspak. Same answer.

Mr. Tavenner. Is William Santora a field organizer of the UE?

Mr. Emspak. Same answer.

Mr. Tavenner. Is Marcel Scherer an international representative of the UE?

Mr. Emspak. Same answer.

Mr. Tavenner. Is Louis I. Sorti a field organizer of the UE?

Mr. Emspak. Same answer.

Mr. Moulder. Same answer is your refusal to answer for the reasons given?

Mr. Emspak. I gave specific reasons why I felt I should not participate in this kind of questioning, and I stand by that.

Mr. Tavenner. Is Philip V. Gelder an international representative of the UE?

Mr. Emspak. Same answer.

Mr. Tavenner. Is Perez Zagorin a field organizer of the UE?

Mr. Emspak. Same answer.

Mr. Tavenner. Is Carl Brandt connected or associated in any way as an international representative or otherwise with UE?

Mr. Emspak. Same answer.

Mr. Tavenner. Is Al Clough a field organizer?

Mr. Emspak. Same answer.

644 Mr. Tavenner. Is Kermit Kirkendahl a field organizer?

Mr. Emspak. Same answer.

Mr. Tavenner. Is John Thomas a field organizer?

Mr. Emspak. Same answer.

Mr. Tavenner. Is Fred Keller a field organizer with UE?

Mr. Emspak. Same answer.

Mr. Tavenner. Is John Mitchell a field organizer?

Mr. Emspak. Same answer.

Mr. Tavenner. Is Fred Sheppart a field organizer?

Mr. Emspak. Same answer.

Mr. Tavenner. Is L. B. Slagle a field organizer with UE?

Mr. Emspak. Same answer.

Mr. Tavenner. Is Martin Sramek a field organizer with UE?

Mr. Emspak. Same answer.

Mr. Tavenner. Is Robert B. Logsdon an international representative of UE?

Mr. Emspak. Same answer.

Mr. Tavenner. John Bittman is a field organizer, is he not?

Mr. Emspak. Same answer.

Mr. Tavenner. Is William B. Elconon an international representative?

Mr. Emspak. Same answer.

Mr. Tavenner. Is H. M. Martinson a field organizer?

Mr. Emspak. Same answer.

Mr. Tavenner. Is Anthony De Maio an international representative of your union?

Mr. Emspak. Same answer.

Mr. Tavenner. Is Irene Berman an international representative?

Mr. Emspak. Same answer.

Mr. Tavenner. Is Allan Bjorklund a field organizer?

Mr. Emspak. Same answer.

Mr. Tavenner. Is Thomas Foley a field organizer?

Mr. Emspak. Same answer.

Mr. Tavenner. Is Robert Kirkwood an international representative?

Mr. Emspak. Same answer.

Mr. Tavenner. Is Lee Lundgren an international representative?

Mr. Emspak. Same answer.

Mr. Tavenner. Is William Mauseth a field organizer?

Mr. Emspak. Same answer.

Mr. Tavenner. Is William Sheehan a field organizer ?

Mr. Emspak. Same answer.

Mr. Tavenner. Is Phillip H. Smith an international representative with the UE?

Mr. Emspak. Same answer.

Mr. Tavenner. Do you know John T. Bernard?

Mr. Emspak. Same answer.

Mr. Tavenner. Is he a field organizer for the UE in the Chicago district?

Mr. Emspak. Same answer.

Mr. Tavenner. Is Peter Besch an international representative?

Mr. Emspak. Same answer.

Mr. Tavenner. Is T. Louis Majors an international representative?

Mr. Emspak. Same answer.

Mr. Tavenner. Is Robert McNaughton a field organizer?

Mr. Emspak. Same answer.

Mr. Tavenner. Is John Paradise a field organizer?

Mr. Emspak. Same answer.

Mr. Tavenner. Is Nick Tomasetti a field organizer?

Mr. Emspak. Same answer.

Mr. Tavenner. Mr. Emspak, have you ever been affiliated with the National Federation for Constitutional Liberties?

Mr. Emspak. I answered that, Mr. Chairman.

Mr. Tavenner. I say, have you ever been affiliated with such an organization?

Mr. Emspak. I answered that.

Mr. Moulder. You mean you refuse to answer for the reasons previously stated?

Mr. Emspak. I answered it in the terms I did when I said as far as my associations and affiliations are concerned, that is something a committee of this kind should not pry into.

645 Mr. Tavenner. In other words, you do not care to disclose whether you are affiliated with that organization?

Mr. Emspak. I answered that.

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Mr. Tavenner. Mr. Emspak, have you ever been associated with the Civil Rights Congress?

Mr. Emspak. Again, basically the whole line of questions is the same, so I will say I take the same position I expressed earlier.

Mr. Tavenner. Are you familiar with the fact that the Civil Rights Congress has also been cited as a Communist-front organization by the Attorney General?

Mr. Emspak. Same answer.

Mr. Tavenner. Are you acquainted with Louis Budenz?

Mr. Emspak. Same answer.

Mr. Tavenner. Louis Budenz was former editor of the Daily Worker, was he not?

Mr. Emspak. Same answer.

Mr. Tavenner. You are acquainted with the fact, are you not, that on March 18, 1947, in testimony before a committee of Congress, he identified you as a member of the Communist Party?

Mr. Emspak. Whatever Budenz does, don't ask me to underwrite. Sure, I am acquainted with him.

Mr. Tavenner. You know that he did so identify you as a member of the Communist Party. Do you desire to deny it?

Mr. Emspak. I have no desire to express any opinion on my associations to this committee for the reasons I stated.

Mr. Tavenner. So you decline to deny or affirm that you were a member of the Communist Party?

Mr. Emspak. I answered the question.

Mr. Tavenner. Are you acquainted with James MacLeish?

Mr. Emspak. Same answer.

Mr. Tavenner. Is he now president of district 4, United Electrical, Radio, and Machine Workers of America?

Mr. Emspak. Same answer.

Mr. Tavenner. Are you acquainted with Salvatore M. Vottis?

Mr. Emspak. Same answer.

Mr. Tavenner. That is all you care to say about that?

Mr. Emspak. Same answer, that is all.

Mr. Tavenner. On July 25, 1947, Mr. Emspak, Mr. Vottis, in sworn testimony before this committee, stated that he had attended fraction meetings of the Communist Party along with you and other members of the UE. Do you deny or affirm the statement made by Mr. Vottis?

Mr. Emspak. I won't discuss it at all other than in the terms I have.

Mr. Tavenner. Mr. Emspak, Mr. Vottis also testified you attended Communist Party meetings held in his home in Schenectady, N. Y. Do you deny or affirm that statement?

Mr. Emspak. I neither deny nor affirm it, Mr. Chairman.

* * * * * * *

Mr. Tavenner. At this time are you a member of the Communist Party?

Mr. Emspak. I answered that when I said the affidavit speaks for itself.

Mr. Tavenner. Is that all the answer you care to give?

Mr. Emspak. I should think that is plenty.

Mr. Tavenner. The affidavit spoke as of the date you gave it some months back, but you are not willing to speak now as to what you are?

Mr. Emspak. I understand an affidavit to be an affidavit, a document that is binding when one undertakes to subscribe to it. I further understand that the motives of this committee are to establish a beautiful frame to hang people who try to comply with the law. O. K. The affidavit is binding and that is that.

Mr. Tavenner. Is that all you have to say?

Mr. Emspak. I think that answers the question fully and completely.

Mr. Tavenner. Were you a member of the Communist Party at any time before you signed the affidavit?

Mr. Emspak. That I will answer the same way I did about an hour ago.

Mr. Tavenner. Have you ever paid Communist Party dues?

Mr. Emspak. I answered that.

Mr. Tavenner. Have you ever signed an application to join the Communist Party?

Mr. Emspak. I answered that.

646 Mr. Tavenner. Have you ever registered as a member of the Communist Party?

Mr. Emspak. I answered that.

Mr. Tavenner. Did you, as a member of the Communist Party attend the trial of Earl Browder at Communist Party headquarters in New York City?

Mr. Emspak. I answered that.

Mr. Moulder. You mean you refuse to answer for the same reasons you gave at the beginning?

Mr. Emspak. That is correct. I answered the best way I know how.

Because of the foregoing, the said Committee on Un-American Activities was deprived of answers to pertinent questions propounded to said Julius Emspak relative to the subject matter which, under Public Law 601, section 121, subsection Q(2), of the Seventy-ninth Congress, and under House Resolution 5 of the Eighty-first Congress, the said committee was instructed to investigate, and the refusal of the witness to answer questions, namely:

Mr. Emspak, are you acquainted with Joseph Persily?

In what capacity is Joseph Persily associated with the UE at this time?

Is he an organizer in the UE?

Are you acquainted with Albert Smith?

Is he employed by the UE?

Mr. Emspak, has Max Helford ever been connected with UE as a field organizer?

Do you know them or not?

Is Max Helford at the present time a field organizer for the UE?

Was Phil Saba originally from local 155?

And is he now a field organizer for the UE in district 1?

Is Hank Rhine presently an international representative of the UE?

Is Jack Gorelick now affiliated with the UE?

Is Ernest Moyer a field organizer for UE in the Easton area?

Do you know James Lustig?

Is he an international representative of UE?

Is Morris Kersten an international representative of UE?

Is Fred Haug an international representative of UE?

Is Charles Newell an international representative of UE?

Is Leo Turner a field organizer in district 6?

Is Hugh Harley a field organizer for UE?

Is Arthur Garfield an international representative of UE?

Is Ernest De Maio presently an international representative of UE?

Is Henry Fiering a field organizer for the UE?

Is Herbert Hirschberg an international representative of UE?

Is K. M. Kirkendahl a field organizer of the UE?

Is Robert Harrison a field organizer of the UE?

Is William Santora a field organizer of the UE?

Is Marcel Scherer an international representative of the UE?

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Is Fred Keller a field organizer with UE?

Is John Mitchell a field organizer?

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Is L. B. Slagle a field organizer with UE?

Is Martin Sramek a field organizer with UE?

Is Robert B. Logsdon an international representative of UE?

John Bittman is a field organizer, is he not?

Is William B. Elcona an international representative?

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Is Irene Berman an international representative?

Is Allan Bjorklund a field organizer?

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Is Lee Lundgren an international representative?

Is William Mauseth a field organizer?

Is William Sheehan a field organizer?

Is Phillip H. Smith an international representative with the UE?

Do you know John T. Bernard?

Is he a field organizer for the UE in the Chicago district?

Is Peter Besch an international representative?

Is T. Louis Majors an international representative?

Is Robert McNaughton a field organizer?

Is John Paradise a field organizer?

Is Nick Tomasetti a field organizer?

Mr. Emspak, have you ever been affiliated with the National Federation for Constitutional Liberties?

Mr. Emspak, have you ever been associated with the Civil Rights Congress?

Louis Budenz was former editor of the Daily Worker, was he not?

Are you acquainted with James MacLeish?

Is he now president of district 4, United Electrical, Radio, and Machine Workers of America?

Are you acquainted with Salvatore M. Vottis?

On July 25, 1947, Mr. Emspak, Mr. Vottis, in sworn testimony before this committee, stated that he had attended fraction meetings of the Communist Party along with you and other members of the UE. Do you deny or affirm the statement made by Mr. Vottis?

Mr. Emspak, Mr. Vottis also testified you attended Communist Party meetings held in his home in Schenectady, N. Y. Do you deny or affirm that statement?

At this time are you a member of the Communist Party?

Were you a member of the Communist Party at any time before you signed the affidavit?

Have you ever paid Communist Party dues?

Have you ever signed an application to join the Communist Party?

Have you ever registered as a member of the Communist Party?

Did you, as a member of the Communist Party attend the trial of Earl Browder at Communist Party headquarters in New York City?

which questions were pertinent to the subject under inquiry, is a violation of the subpena under which the witness had previously appeared, and his refusal to answer the aforesaid questions deprived your committee of necessary and pertinent testimony, and places the said witness in contempt of the House of Representatives of the United States.

[Stipulation Attachment No. 2 is inserted above as Emspak Exhibit No. 1 and is numbered page 37.]

694 **Stipulation Attachment No. 3**

TESTIMONY OF LOUIS J. RUSSELL—Recalled

Mr. Tavenner. Now will you proceed with your résumé as to Mr. Julius Emspak?

Mr. Russell. In sworn testimony of Salvatore M. Vottis before this committee during the hearings regarding communism in labor unions, he made the following statement concerning Julius Emspak and James Matles:

Mr. Stripling. Is it your opinion that James Matles and Julius Emspak are members of the Communist Party?

Mr. Vottis. Yes; they both are members of the party, to my knowledge.

Mr. Stripling. You sat in meetings with them?

695 Mr. Vottis. I sat in meetings with them. They have met in my home as members of the Communist Party. (See Hearings Regarding Communism in Labor Unions, p. 219.)

Report 1311 of the Special Committee on Un-American Activities, dated March 29, 1944, contains a chapter dealing with the activities of Julius Emspak, secretary-treasurer of the United Electrical, Radio, and Machine Workers of America, CIO, beginning on page 103.

Julius Emspak has been affiliated with the National Federation for Constitutional Liberties as one of the signers of a statement sponsored by that organization which hailed the War Department order on commissions for Communists. (See Daily Worker of March 18, 1945, p. 2.)

The congressional Committee on Un-American Activities cited the National Federation for Constitutional Liberties as being among a "maze of organizations" which were "spawned for the alleged purpose of defending civil liberties in general but actually intended to protect Communist subversion from any penalties under the law" (Rept. No. 1115, September 2, 1947, p. 3).

In a report dated March 29, 1944, page 50, of the Special Committee on Un-American Activities, it was stated that—

There can be no reasonable doubt about the fact that the National Federation for Constitutional Liberties—regardless of its high-sounding name—is one of the viciously subversive organizations of the Communist Party.

Attorney General Francis Biddle cited this group as—

part of what Lenin called the solar system of organizations, ostensibly having no connection with the Communist Party, by which Communists attempt to create sympathizers and supporters of their program * * *. (It) was established as a result of a conference on constitutional liberties held in Washington, D. C., June 7-9, 1940 * * *. The defense of Communist leaders such as Sam Darcy and Robert Wood, party secretaries for Pennsylvania and Oklahoma, have been major efforts of the federation. (See Congressional Record, September 24, 1942, p. 7687.)

Attorney General Tom Clark cited this group as subversive and Communist in lists furnished the Loyalty Review Board, which were released to the press on December 4, 1947, and September 21, 1948.

According to the Daily Worker of March 5, 1946, Emspak was one of the sponsors of the Win-the-Peace Conference which was held in Washington, D. C., April 5-7, 1946.

Win-the-Peace Conference or National Committee to Win the Peace was cited by Attorney General Tom Clark as subversive and Communist in lists furnished the Loyalty Review Board, which were released to the press on December 4, 1947, and September 21, 1948.

Julius Emspak was one of the signers of the telegram sent to President Roosevelt by the Joint Committee for Trade-Union Rights in behalf of the International Fur and Leather Workers Union, defendants. (See Daily Worker of November 11, 1940, pp. 1 and 5.)

The Special Committee on Un-American Activities cited the Joint Committee for Trade-Union Rights as a "Communist front which, jointly with the International Labor

Defense, supported and defended Communist Party leaders of the International Fur and Leather Workers Union when they were serving prison terms." (Report dated March 29, 1944, p. 102).

A letterhead, dated September 3, 1938, lists Julius Emspak as one of the sponsors of the American Relief Ship for Spain.

696 The American Relief Ship for Spain was cited by the Special Committee on Un-American Activities as "one of the several Communist Party front enterprises which raised funds for loyalist Spain (or rather raised funds for the Communist end of that civil war)" (Report, March 29, 1944, p. 102).

Both a letterhead of September 28, 1939, and an undated circular list Emspak as a member of the labor advisory committee of the Consumers Union, an organization which was "founded in the winter of 1935-36 and grew directly out of a strike at Consumers Research. The Communist Party looked upon Arthur Kallet, founder of the Consumers Union, as its chief representative in the party's effort to exploit the grievances of consumers" (Report 1311 of the Special Committee on Un-American Activities).

In testimony of Mr. Walter S. Steele before the Committee on Un-American Activities, in July 1947, page 14, we find Julius Emspak listed as one of the initiators of the National Congress on Civil Rights on April 27-28, 1946, at which the Civil Rights Congress was born. In the committee's report on the Civil Rights Congress we find the following reference to Julius Emspak:

Member, initiating committee of Civil Rights Congress; cited by Louis F. Budenz as "Comrade Juniper," a secret member of the Communist Party, United States of America, in 1947; sponsor of the American Peace Mobilization and its successor, the Win-the-Peace Conference.

Attorney General Tom Clark cited the Civil Rights Congress as subversive and Communist in lists furnished to the Loyalty Review Board, which were released to the press

on December 4, 1947, and September 21, 1948. The congressional Committee on Un-American Activities cited the Civil Rights Congress as an organization formed in April 1946 as a merger of two other Communist-front organizations—International Labor Defense and the National Federation for Constitutional Liberties—"dedicated not to the broader issues of civil liberties, but specifically to the defense of individual Communists and the Communist Party" and "controlled by individuals who are either members of the Communist Party or openly loyal to it." (Report No. 1115, September 2, 1947, pp. 2 and 19.)

Mr. Emspak is referred to on pages 145, 149, 151, 152, 153, 170, 172, 176, 195, 215, 217, 219 of Hearings Regarding Communism in Labor Unions.

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Stipulation Attachment No. 4

697 Russell:

Exhibit No. 4: Affidavit of Clarence D. Copeland.
Exhibit No. 5: Affidavit of Richard W. McClellan.
Exhibit No. 6: Testimony of J. B. Matthews before House Education and Labor Subcommittee, September 29, 1948. (Printed in full following list of exhibits.

UNITED ELECTRICAL, RADIO AND MACHINE WORKERS OF AMERICA

The United Electrical, Radio and Machine Workers of America, having between six and seven hundred thousand members, is the largest Communist-dominated organization in the American labor movement.

This vast segment of American labor, together with their dependents, make up a group of some 2,000,000 persons. They have economic interests which are vitally affected by the fact that this union is under Communist control.

Incredible as it may seem, they are to a great extent at the mercy of a Hungarian-born, alien Communist.

This man is James Matles. His title is UE Director of Organization.

Assisting Matles in this Communist control are roughly 450 Communist Party members or ardent fellow travelers.

These men, whom I shall presently name, follow both the Communist Party "line" and the orders of James Matles with complete fidelity. I shall submit their records to the committee.

How an organization representing the interests of so many loyal citizens can be dominated by a numerically insignificant group of Communists will be a profound mystery to all but those who have been initiated into the techniques of Communist control.

A group of Communists anywhere, outside Soviet Russia and its captive states, is synonymous with a fifth column. The Communist leadership of the UERMWA is a fifth column which reaches into some of the most important sections of the American industrial establishment.

The UERMWA has nation-wide bargaining relations with such giants as Westinghouse Electric Corp., General Motors Corp., General Electric Co., Radio Corporation of America, and Sylvania Electrical Products.

The fraud by which the Communists took over control of the union in the General Electric plant at Schenectady, N. Y., is illustrative of some of their unscrupulous tactics.

In May 1935, Israel Amter, then New York State chairman of the Communist Party, went to Schenectady where he gathered a small group of GE employees and local Communists together, to confer on strategy.

At this meeting Amter appointed Sadie Doran, local Communist Party organizer, to direct the strategy of taking over the union in the GE plant. She was in Schenectady until late in 1936 when the party sent Dorothy Loeb and Joseph Klein to replace her. In recent years, Dorothy Loeb has written the labor news column of the Daily Worker.

Later on, it has been learned from competent witnesses, the Schenectady Communists were told that they would

receive their instructions on union matters from James Matles. In 1936, the Communist Party strength in Schenectady was a half dozen active members, and the union had enrolled between 250 and 300 members. A half dozen obscure employees set about to pit their strength against a billion-dollar corporation.

After learning that approximately 3,500 dues-paying union members would be required before the NLRB in Washington would authorize a collective bargaining election, the half dozen Communist zealots sat down night after night to make out that many fraudulent union cards and dues receipts. They simply copied names and addresses from the telephone directories of the vicinity.

The NLRB then sent a representative to Schenectady from Washington. This representative took a casual glance at the fraudulent cards and ordered an election. The Communists won the election, and from that time to the present day they have dominated the union local at the GE plant—local 301 which at times has reached a membership as high as 27,000.

There is evidence that the same kind of fraud was practised elsewhere in the country by the Communists.

UE Local 301 at Schenectady is looked upon as something of the "mother local" throughout the UERMWA. Reliable witnesses report that the Communist Party has pursued a course of relentless determination to retain control of the local regardless of the cost, having sent
698 in scores of organizers and spent thousands of dollars whenever its grip seemed threatened. Probably no other industrial plant in the United States is more important to the national defense than the GE plant at Schenectady.

Like all Communist-controlled unions, the UERMWA toes the Kremlin line on all questions. It has never been guilty of a deviation, however slight.

In the early days of the union, the Communist Party's American League Against War and Fascism represented the foreign policy of Moscow's Politburo. The UERMWA

gave its whole-hearted support to the league, urging its locals to participate actively in its agitation and propaganda. The first point in the program of the American League Against War and Fascism read as follows:

"To work toward the stopping of the manufacture and transport of munitions and all other materials essential to the conduct of war, through mass demonstrations, picketing, and strikes."

The significance for national defense of the UERMWA's commitment to that kind of treason is at once apparent.

Late in 1937, the Communist Party "line" shifted to what it called "collective security of the democracies against fascism." At that time, the American League Against War and Fascism became the American League for Peace and Democracy, and all talk of stopping manufacture by political strikes was dropped. The UERMWA with complete servility, shifted its position to conform with the new Communist Party "line." The UE News, whose editor is Julius Emspak, has always been a mere echo of the Daily Worker.

The American Communists were quite unprepared by Moscow for the signing of the Stalin-Hitler pact by the beaming Molotov and Ribbentrop in August 1939. Nevertheless, they proceeded to bury the American League for Peace and Democracy without the usual respect which is accorded the dead. They went over to the new foreign policy of Ribbentrop. The UE News and Emspak, Matles and company went along obediently with Molotov and Ribbentrop. The new UERMWA and Communist Party slogans were "The Yanks Are Not Coming," and "No Convoys, No AEF." UE locals across the country adopted these slogans and passed resolutions in conformity with them. The new foreign policy culminated in September 1940, in the formation of the American Peace Mobilization. The White House was picketed and Wall Street was cursed with the old fervor. The UE leadership gave overwhelming evidence of its fifth column character.

On June 22, 1941, everything changed once more. The UE News shrieked a war-mongering patriotism. So did the Daily Worker. The UERMWA formally pledged a "No Strike" policy and held labor-management conferences on all-out production.

In the middle of 1942, the Communist Party received instructions from the Kremlin to begin nation-wide agitation for a "second front." UE leaders and many locals began to flood the White House with demands for a second front, without the slightest regard for our military readiness. The sole consideration was the new set of instructions dictated by Moscow.

The conclusion of the war brought a new agitation calculated to serve the interests of the Soviet Foreign Office. This time the slogan was "Bring the boys home." Once more the UE leadership was weighed in the Bolshevik balance and found not wanting.

Today the UE leadership has pitched its tents in the Wallace-Communist camp. UE general president, Albert J. Fitzgerald, presided at the Philadelphia convention of the Progressive Party. UE leaders in many parts of the country are running for office this year on the Progressive Party ticket. The UE News is currently devoting many pages to news and pictures of the fifth-columnist party.

It will come as a surprise to some to learn that the UE News, official organ of the UERMWA, is not published by the union but by the Trade Union Service, Inc., an entirely independent concern; not a single owner of the Trade Union Service, Inc., is a member of the UERMWA. Among the owners are Corliss Lamont, Frederick Vanderbilt Field, and James Waterman Wise—all of whom have extremely long records of affiliation with Communist-front organizations.

Last Saturday, Attorney General Clark caused to be published a revised list of subversive organizations. This newest list included the People's Radio Foundation. When the People's Radio Foundation applied to the Federal Communications Commission 2 years ago for an FM broad-

casting license, it listed its stockholders. It was then revealed that district 4 of the UERMWA is the largest single stockholder in this subversive Communist enterprise. Next in order of their stockholdings in the People's Radio Foundation are the Communist Party auxiliary, the International Workers Order; the Russky Golos
699 Publishing Corp. which publishes a Communist Party newspaper in the Russian language; and the Communist-controlled International Fur and Leather Workers Union.

Although it is a Communist-controlled union, the UERMWA does not adhere to class-struggle practices in all of its contractual relations with business concerns. One exception is the Electronics Manufacturers Association.

The secretary-treasurer of the Electronics Manufacturers Association is none other than Samuel J. Novick, its founder and most influential member. Novick heads a concern known as the Electronic Corp. of America.

The UE News of July 31, 1948, has a picture of a smiling group of men signing a contract between UE Local 430 and the Electronics Manufacturers Association. There are no expressions of class struggle on their faces.

The Communist Party's Sunday newspaper, the Worker, devoted more than two pages of its issue of December 10, 1944, to a highly eulogistic article on Samuel J. Novick and his Electronic Corp. of America. The article says: "The CIO-UE considers ECA's labor-management committee as a model." This is characteristic of the praise which both the UERMWA and the Daily Worker have meted out to Samuel J. Novick.

The Communist Party newspaper then makes the astonishing statement about the ECA (Electronic Corp. of America): "ECA is making money producing radios and scientific electronic gadgets, most of them of secret nature, for the United States armed forces." When it is remembered that this was written during the war, the question naturally arises: How did the Communist Party know about Novick's secret scientific gadgets in wartime and

why? The Committee on Un-American Activities has just reported as follows: "During the war, Electronic Corp. of America performed secret Government contracts in the amount of some $6,000,000. For a time it was the only contractor engaged in producing certain highly secret items for use in radar installations."

It is not hard to guess how the Communist Party knew about Novick's secret items for use in radar installations while the war was still on. Novick's public relations director was Carl A. Bristel, who was business manager of the Communist Party's New Masses under the name of Sol Becker, in 1942. Furthermore, the UE leaders who negotiated labor contracts with Novick and praise him so highly are Anthony Salese, president of UE Local 430; and Al Stearn, business manager of the same local. Both Salese and Stearn have been positively identified as members of the Communist Party. In other words, all of Novick's employees are under the control, in their union activities, of two members of the Communist Party.

Since Novick himself is something of a veteran Communist fellow traveler, it would appear that UE Local 430 is a "company union" so far as its relations with Novick are concerned. Novick was one of the original sponsors of the People's Radio Foundation which Attorney General Clark says is subversive and in which UERMWA District 4 is the largest stockholder. Novick was also a sponsor of the National Negro Congress and of an auxiliary of the International Labor Defense, both of which the Attorney General listed as subversive last Saturday. Furthermore, Novick has been a member of the board of directors of the Communist-controlled American-Russian Institute whose executive director is Henry Collins, Jr., who was named recently as a member of the Communist underground cell in Washington, D. C. Novick has also been affiliated with the Ambijan Committee for Emergency Aid to the Soviet Union. In view of all the facts, including his false statement which facilitated the entrance of a Soviet spy, Arthur Adams, into the United States, it is pertinent to ask if

Novick drew any line anywhere on the type of "emergency aid" which he was prepared to render to the Soviet Union. Novick was treasurer of the Communist-controlled American Committee for Spanish Freedom.

Novick's relations with the Communist leaders of the UERMWA raises the question of the posibilities of easy espionage in such a situation.

When we come to the matter of individual UE leaders, we find that the records show that several hundreds of these leaders are members of the Communist Party or have had significant affiliations with subversive Communist-front organizations. I shall take up 100 cases of individual leaders.

Pat Amato, president, UE Local 1105, Chicago, delegate to 1947 and 1948 UE conventions

Pat Amato sent May Day greetings to the Chicago Star, weekly Communist Party newspaper published in Chicago whose name was changed to the Illinois Standard in September 1948. (See Chicago Star, April 26, 1947.)

700 Amato was a member of the Chicago Star subscription Committee of Local 1150, thus indicating his more than casual interest in the circulation of this Communist Party newspaper. (See Chicago Star, March 20, 1948.)

Amato signed the manifesto defending the Communist Party which was published under the auspices of the Civil Rights Congress in May 1947. (See The Worker, May 25, 1947.) The Civil Rights Congress is on Attorney General Clark's list of subversive organizations. It was formed in 1946 by a merger of the International Labor Defense and the National Federation for Constitutional Liberties, both of which have been officially cited as subversive by many Government agencies.

R. W. Bergstrom, business agent, UE Local 1139, Minneapolis, delegate to 1948 UE convention

R. W. Bergstrom was one of the numerous CIO leaders who were affiliated with the Citizens Committee To Free Earl Browder. (See Daily Worker, January 25, 1942.)

The Citizens Committee To Free Earl Browder was a strictly Communist Party affair. Its executive secretary was the well-known Communist Elizabeth Gurley Flynn. Miss Flynn is not only a member of the national committee of the Communist Party but also a columnist for the Daily Worker. Louis Weinstock, administrative secretary of the Citizens Committee To Free Earl Browder, is now a member of the national committee of the Communist Party.

Bergstrom was also a member of the Minnesota State Committee To Free Earl Browder. (See Daily Worker, November 8, 1941.)

Bergstrom was also affiliated with the National Federation for Constitutional Liberties.

Under the auspices of the Civil Rights Congress, Bergstrom signed a statement denouncing the recent indictment of 12 national leaders of the Communist Party. (See Daily Worker, September 23, 1948.)

John T. Bernard, UE political action director, district 11, Chicago, UE field organizer

John T. Bernard, former Member of the House of Representatives, long ago acquired a reputation as a Communist. A mere listing of his affiliations is sufficient to confirm the accuracy of the charge that he has been an effective agent of the Communist Party.

He has been an instructor in the Abraham Lincoln School, the Communist Party's training school in Chicago which Attorney General Clark has listed as subversive.

He has been affiliated with the following Communist front organizations and enterprises:

American Committee for Defense of Puerto Rican Political Prisoners.
American Committee for Protection of Foreign Born.
American League for Peace and Democracy.
American League Against War and Fascism.
American Peace Mobilization.
American Relief Ship for Spain.

American Writers Congress.
Ben Leider Memorial Fund.
Citizens Committee for Harry Bridges.
Committee for a Democratic Far Eastern Policy.
Conference on Constitutional Liberties in America.
Council of U. S. Veterans.
Daily Worker.
Friends of the Abraham Lincoln Brigade.
Howard University Student Strike.
Illinois People's Conference for Legislative Action.
International Labor Defense.
International Workers Order.
Mother Bloor Celebration Committee.
Motion Picture Artists Committee.
National Federation for Constitutional Liberties.
New Masses.
Open Letter Protesting the Ban on Communists in the American Civil Liberties Union.
United American-Spanish Aid Committee.
Veterans of the Abraham Lincoln Brigade.
Washington Friends of Spanish Democracy.
Workers Alliance.

701 *Neil Brant, UE international representative*

The New York Times of December 8, 1945, reported that Neil Brant was the spokesman for 30,000 employees of the General Motors Corp. in rejecting an offer by GM of 13½-cent-an-hour increase in wages for these employees in its plants in four cities. It is apparent that Brant's position in the United Electrical, Radio, and Machine Workers of America is a key one.

On February 14, 1941, Neil Brant was arrested and charged with "defiling the United States flag" in the State of New Jersey. His police description attached to the record of his arrest reads as follows:

"White, male, 37, 5 feet 6 inches, 145 pounds, gray eyes, dark brown gray hair, slim build, sallow complexion, small mustache; occupation, labor organizer; birthplace, Russia."

It will be noted, of course, that Brant's arrest for defiling the United States flag occurred during the period of the Stalin-Hitler pact when the American Peace Mobilization was engaged in its nation-wide seditious activities and when the Communist Party of the United States was lending every possible aid to Hitler by obstructing the Nation's military preparedness program. Brant's attitude toward the United States flag during that period accurately reflected the Communist Party's views as they have been expressed throughout most of the party's 25-year history in this country. For example, when William Z. Foster, national chairman of the Communist Party, was a witness before a Committee of Congress, he was asked the following question:

"Do you owe allegiance to the American flag; does the Communist Party owe allegiance to the American flag?"

After some sparring, Foster replied:

"And all capitalist flags are flags of the capitalist class, and we owe no allegiance to them."

In the Daily Worker of July 14, 1936, there appears the following question: "Should Communists salute the American flag?" And the Daily Worker answered: "Our flag is the red flag of the international working class." Also, when one of the leading members of the Communist Party returned from the Soviet Union, he engaged in a demonstration, during which he clashed with the local police, and the Communist's own account of his words was published in the Daily Worker, as follows:

"I told the police to hell with the U.S.A. flag. I said that the flag I claimed was the one with the hammer and sickle, the red flag, which we will have some day."

On December 15, 1940, the New Jersey State Industrial Council had before it a resolution which read as follows:

"The council condemns the dictatorships and totalitarianism of nazism, communism, and fascism as inimical to the welfare of labor and destructive of our form of government."

Brant led the fight to delete "communism" from the resolution.

Neil Brant was a member of the executive board of the National Federation for Constitutional Liberties, one of the most influential of the Communist Party's fronts of recent years, and also an organization which Attorney General Clark named as subversive.

In 1937 the International Labor Defense set up a trade-union advisory committee, of which Neil Brant was a member (Labor Defender, October 1937, p. 18). The International Labor Defense, as almost everyone knows, was the legal arm of the Communist Party.

Neil Brant was an instructor in the Communist Party's Workers' School. (See school catalog, 1937.) It may be assumed that such an instructorship could be held only by a card-holding member of the Communist Party. In 1941 the Workers' School became the School for Democracy, and Neil Brant was a lecturer in that institution.

Brant was a participant in the April 6 peace rally, a Communist Party demonstration held at Madison Square Garden which was part of a nation-wide movement leading up to the formation of the American Peace Mobilization. (See Daily Worker, Apr. 4, 1940.)

Brant was a speaker for the American Student Union, another Communist-front organization. (See Daily Worker, Dec. 26, 1941.)

Albert Casale, business agent, UE local 1225, New York

When Israel Amter, veteran leader of the Communist Party, ran for the governorship of New York on the Communist Party ticket, his fellow Communists organized the Labor Committee for Amter as a part of their campaign for votes.

702 Albert Casale was a member of the Labor Committee for Amter.

Since Amter has always been openly a member of the Communist Party and since his candidacy for the governorship of New York was openly a candidacy of the Communist Party, it must be assumed that the members of his campaign committee had fully apprised themselves of these

facts, and were knowingly giving their support to the cause of communism in this instance.

Albert Casale is one of the many strategically placed officials of the UERMWA who have given their support to communism.

Casale was also affiliated with the Citizens Committee to Free Earl Browder. (See the Worker, January 25, 1942.)

Tony Cattonar, business agent, UE local 475, Brooklyn, delegate to 1947 and 1948 UE conventions

Tony Cattonar is a member of the Communist Party. He is also an alien, having been born in Italy.

Formerly, he went under the name of Carlo Andrea, and later Carlo di Andrea.

For a brief period, Cattonar was business manager of L'Unita del Popolo, the Communist Party newspaper which is published in the Italian language in this country.

Cattonar is the son-in-law of the veteran Communist Party leader, Israel Amter. It may be noted, parenthetically, that Amter and his wife, Sadie Van Veen, were prominent in the early organization days of the UERMWA, particularly in Schenectady.

David Davis, business agent, local 155, Philadelphia, delegate to 1947 and 1948 UE conventions

David Davis is one of the UE leaders who openly acknowledges his membership in the Communist Party. He is a member of its national committee, the highest governing body of the Communist Party in the United States. (See Daily Worker, July 30, 1945.)

Davis was also a member of the national committee of the now defunct Communist Political Association, and a member of the constitution committee at its founding convention in May 1944. (See Proceedings of Communist Political Association.)

Davis has also been affiliated with numerous Communist Party projects and front organizations.

He was a sponsor of the United May Day Conference in Philadelphia, a Communist-controlled affair in 1946. (See Daily Worker, April 4, 1946.)

In 1944, he shared the platform with William Z. Foster, head of the Communist Party, at a Philadelphia celebration of the twentieth anniversary of the Communist Party's Daily Worker. (See the Worker, January 9, 1944.) He sent a personal message to this Communist Party paper, in which he said: "Today we observe with justifiable pride the twentieth anniversary of the Daily Worker."

Under the auspices of the National Federation for Constitutional Liberties, he signed an appeal to Governor Olson on behalf of the California Communist leader, Sam Darcy. (See Daily Worker, December 19, 1940.) Attorney General Tom Clark has listed the NFCL as a subversive organization. Also under the auspices of the NFCL, Davis signed a message to the House of Representatives, calling for the end of the Special Committee on Un-American Activities.

He was the signer of a letter to President Roosevelt under the auspices of the Citizens Committee to Free Earl Browder, a Communist front whose objective was the release of Earl Browder from the Atlanta Federal prison where he was serving a 4-year term in connection with his conviction for passport fraud. (See Daily Worker, March 19, 1942.)

According to Soviet Russia Today, he sent greetings to the Soviet Union. (See November 1935 issue of magazine.)

Under the auspices of the Civil Rights Congress, he signed a manifesto in defense of the Communist Party. (See the Worker, May 25, 1947.) The Civil Rights Congress is also on Attorney General Clark's list of subversive organizations.

Anthony DeMaio, UE representative, district 11, Minneapolis, delegate to 1947 UE convention

The UE News, official organ of the United Electrical, Radio, and Machine Workers of America, proudly an-

nounced that Anthony DeMaio was back from the war, and is now on the pay roll of the international office of the UERMWA, assigned to Minneapolis. He is a brother of Ernest DeMaio, president of UE district 11.

703 Anthony DeMaio of UERMWA was in another war several years ago. He was one of the big shots in the Abraham Lincoln Brigade in Spain. Witnesses who had been in Spain with Anthony DeMaio testified under oath to acts of extreme sadism committed by DeMaio against men who were trying to get out of Spain. At the same hearing, on April 12, 1940, there was sworn testimony that DeMaio was a "killer"; that he shot defenseless American boys down in cold blood. The whole sickening story of Anthony DeMaio may be found in detail in volume 13 of the hearings of the Special Committee on Un-American Activities of the House of Representatives. I, personally, conducted the questioning of DeMaio when he was on the witness stand before the Special Committee on Un-American Activities.

As to DeMaio's identity as a member of the Communist Party, the following questions and answers appear in the printed record of the above date:

"Mr. MATTHEWS. Were you ever a member of the Communist Party?

Mr. DEMAIO. I was.

"Mr. MATTHEWS. When did you join the Communist Party?

"Mr. DEMAIO. I don't recall the exact date. It was when I returned from Spain.

"Mr. MATTHEWS. You did travel on a false passport when you went to Spain, didn't you, Mr. DeMaio?

"Mr. DEMAIO. I still refuse (to answer)."

The UE News further proudly offers the interesting bit of information that while DeMaio, the alleged brutal killer in Spain, was wearing a uniform in Europe he was placed in charge of a camp of 700 women in Czechoslovakia by the United States Army.

In other words, in spite of the official sworn testimony as to the character of this man, known to the FBI, and easily accessible to the United States Army, he was accepted for service, and was placed in a position of trust and responsibility.

Under the auspices of the Civil Rights Congress, DeMaio signed a statement denouncing the recent indictment of the 12 national leaders of the Communist Party. (See Daily Worker, September 23, 1948.)

Ernest DeMaio, UE International vice president, president, UE district 11, delegate to 1947 and 1948 UE conventions

Ernest DeMaio's Communist affiliations are such as to leave no doubt that he is a Communist and not just a casual supporter of one or two Communist enterprises.

He is on the board of directors of the Abraham Lincoln School, the Communist Party's training school in Chicago.

He was a sponsor of the seditious American Peace Mobilization.

Together with fellow officers of the UERMWA, DeMaio sent formal greetings to the American Slav Congress.

He was a sponsor of the Friends of the New Masses in Chicago. The New Masses was the weekly publication of the Communist Party.

DeMaio is a sponsor of the Joint Anti-Fascist Refugee Committee, 16 of whose national officers were convicted of contempt of Congress. He has spoken for the JAFRC in Chicago. (See Chicago Star, June 26, 1948.)

He was one of 144 Communist CIO leaders who publicly hailed the Daily Worker on the occasion of its twentieth anniversary in January 1944.

In the Daily Worker of May 19, 1947, Ernest DeMaio appeared as one of the signers of a manifesto issued under the auspices of the Civil Rights Congress. He sponsored the 1947 conference of the American Committee for Protection of Foreign Born.

DeMaio is a member of the National Wallace for President Committee, and is president of the Illinois labor division of Wallace's Progressive Party. (See Chicago Star, May 8, 1948.)

Six of the organizations with which DeMaio has been affiliated are on Attorney General Clark's list of subversive Communist fronts.

Joseph Dermody, UE international representative, district 4

At the request of Edgar L. Warren, head of the Conciliation Service of the United States Department of Labor, five leaders of the UERMWA went to Washington, D. C., on December 26, 1945, to confer with the Government representatives on the UERMWA's negotiations with General Electric, Westinghouse, and General Motors. These five leaders were James Matles, Joseph Dermody, Edward Matthews, Neil Brant, and Nathan Spero.

704 It is very significant that four of these five leaders of the UERMWA (all but Spero) have substantial Communist records, a fact which amply attests the Communist leadership of this CIO union.

Joseph Dermondy was a member of the Communist committee which was known as the Joint Committee for Trade Union Rights, a group whose avowed objective was to defend the Communist leaders in the fur industry. (See Daily Worker, November 11, 1940.)

Dermondy was also a member of the Progressive Committee to Rebuild the American Labor Party, a strictly Communist group which was set up for the purpose of capturing the ALP, an objective which was eventually achieved.

Dermody endorsed the American Youth Congress and urged all locals in UE district 4 to send delegates to it. (UE News, June 17, 1939.) Attorney General Clark has listed the AYC as subversive.

In his position as secretary of UE district 4, Dermody was a member of the New York Peace Committee for April

6. (See letter dated March 25, 1940.) This committee was a predecessor of the American Peace Mobilization.

Dermody protested to Gov. Herbert H. Lehman that there was a widespread movement to "intimidate" the Communist Party. (See Daily Worker, October 28, 1940.)

Thomas F. Dwyer, business agent, UE local 475, New York

Thomas F. Dwyer has made no secret of his membership in the Communist Party. In 1937, he was a candidate for the New York Assembly on the Communist Party ticket. In 1940 he ran for Congress on the Communist Party ticket. In 1941 he was the Communist candidate for sheriff of Kings County, N. Y.

Dwyer has spoken frequently at Communist Party meetings.

In the elections of 1945, Dwyer was a member of the Citizens Committee to Re-Elect Councilman Peter V. Cacchione. Cacchione was, of course, a well-known leader of the Communist Party.

William B. Elconin, UE international representative, Los Angeles, delegate to 1947 and 1948 UE conventions

William B. Elconin is the top leader of the UERMWA on west coast.

Elconin is one of the numerous CIO leaders who were affiliated with the Citizens Committee to Free Earl Browder.

Elconin was a speaker for the seditious American Peace Mobilization in Los Angeles.

According to the reports of the Tenney Committee, Elconin has publicly defended the west-coast Communist Party newspaper, People's Daily World.

He has also publicly defended Communist Party deportees.

At the present time Elconin is a trade-union sponsor of the Independent Progressive Party, the name by which the Wallace party goes in California.

Frank Emspak, former president, UE local 301, Schenectady

Frank Emspak is the brother of Julius Emspak and like him has been identified as a member of the Communist Party. He was recruited for the party in 1936 by Salvatore M. Vottis.

Julius Emspak, UE general secretary-treasurer, delegate to 1947 and 1948 UE conventions

Julius Emspak has been identified as "Comrade Juniper," top labor union commissar of the Communist Party in the United States.

Emspak's only rival for complete power in the UER-MWA is James Matles.

By any reasonable definition, Emspak is clearly a Communist. As editor of UE News, he has plugged the Communist Party "line" in all of its twists and turns.

Emspak has been affiliated with the following Communist-front organizations:

American Peace Mobilization, member, National Council, folder.

American Relief Ship for Spain, sponsor, letterhead, September 3, 1938.

American Slav Congress, sent greetings, program, August 6, 1944.

Committee to Defend America by Keeping Out of War, sponsor, letterhead, August 10, 1940.

Consumers Union of United States, Inc., member, Labor Advisory Committee, letterhead, September 28, 1939.

Emergency Peace Mobilization, sponsor, official program and call, August 31-September 2, 1940.

705 Joint Committee for Trade Union Rights, signer of telegram to President Roosevelt, Daily Worker, November 11, 1940, page 1.

National Committee to Abolish the Poll Tax, sponsor, PM, May 12, 1944, page 3.

Science and Society, contributor, Science and Society, winter 1943, page 88.

Charles Fay, president, UE local 475, vice president, UE district 4, delegate to 1947 and 1948 UE conventions

Charles Fay was a delegate to the meeting of the American Peace Mobilization which convened in New York City on April 6, 1941, and which was featured in the Daily Worker of May 2, 1941. It will be recalled that the APM was the notorious Communist-front organization which propagandized for the Communist Party "line" during the period of the Stalin-Hitler pact. It is hardly possible that any of those who participated in the activities and meetings of the APM were unaware of its completely Communist complexion.

Charles Fay signed a petition of the Citizens Committee to Free Earl Browder while he was in attendance, as a delegate, at the meeting of the American Peace Mobilization.

Under the auspices of the Civil Rights Congress, Fay signed a manifesto in defense of the Communist Party. (See the Worker, May 25, 1947.)

Henry Fiering, UE international representative, delegate to 1948 UE convention

In the Daily Worker of March 8, 1942, Fiering's name appeared, a signer of a statement released by the National Free Browder Congress.

In 1941, Fiering was a prominent leader of the Vincent Favorito Defense Committee. Favorito was a Communist Party member in Cleveland, Ohio, under a Government deportation order for illegal entrance into the United States.

On June 5, 1946, Ralph E. Moses and Ben H. Cromwell, president and secretary, respectively, of UE Local 801 in Dayton, Ohio, resigned their offices and charged that Henry Fiering was the Dayton leader of the Communist Party and that, as such, he held complete dictatorial control over local 801. The international office of the UERMWA named Arthur Garfield to take over the affairs of local 801. Fiering was shifted to Winston-Salem, N. C.

Fiering was one of 550 signers of a public manifesto issued by the Civil Rights Congress in defense of the Communist Party, for release on May 25, 1947.

Charles Fisher, negotiator, UE local 1145

Charles Fisher was a delegate to the meeting of the American Peace Mobilization which convened in New York City on April 6, 1941. The APM was the notorious Communist-front organization which propagandized for the Communist Party "line" during the period of the Stalin-Hitler pact.

It is pertinent to note that one Morton Friedman was dismissed from his position on the War Manpower Commission on the ground that he had been affiliated with the American Peace Mobilization, and that Friedman's dismissal was upheld in the courts to which he appealed. In March 1947, the Supreme Court refused to review the decision of the lower courts in the Friedman case and thus, in effect, ruled that affiliation with this one Communist-front organization (the APM) was sufficient ground for challenging the loyalty of a Government employee. The same applies to labor-union leaders.

Charles Fisher signed a petition of the Citizens Committee to Free Earl Browder while he was in attendance, as a delegate, at the meeting of the American Peace Mobilization. (See Daily Worker, May 2, 1941.)

In 1940, Fisher was affiliated with the Joint Committee for Trade-Union Rights, a Communist-front set-up to defend the Communist leaders in the fur industry. (See Daily Worker, November 11, 1940.)

He was also a sponsor of the Wisconsin State Conference on Social Legislation in the year 1940.

Albert J. Fitzgerald, UE general president, delegate to 1947 and 1948 UE conventions

The consensus of opinion on Albert J. Fitzgerald among those who have studied the Communist Party leadership of the UERMWA is that he is a willing stooge for the Emspak-Matles Communist machine.

At the present time Fitzgerald is in the forefront of the Wallace third party movement, a movement which is now engaging the principal energies of the Communist Party.

706 Fitzgerald has been affiliated with the following Communist-front organizations:

American Slav Congress, sent greetings, program, August 6, 1944.

Greek American Council, signer of open letter on Greece, the Bulletin, January 1946, page 1.

National Citizens Political Action Committee, committee member, folder.

National Committee to Abolish the Poll Tax, sponsor, PM, May 12, 1944, page 3.

National Committee to Combat Anti-Semitism, sponsor, news release, May 24, 1944.

National Wallace for President Committee, co-chairman, news release, March 23, 1948.

Michael Fitzpatrick, former president, UE district 6, leader UE local 601.

Michael Fitzpatrick, brother of Thomas J. Fitzpatrick, has been identified as a member of the Communist Party in sworn testimony before the Committee on Un-American Activities of the House of Representatives.

While he was president of UE district 6, Michael Fitzpatrick signed a "peace proclamation" which was an enterprise of the Communist Party in the period of the Stalin-Hitler pact and which was part of a nation-wide Communist agitation leading up to the formation of the American Peace Mobilization. (See Daily Worker, January 3, 1940.)

Thomas Fitzpatrick, president, UE local 601, East Pittsburgh, delegate to 1947 and 1948 UE conventions

Last year at a meeting of the Pennsylvania Industrial Union Council, CIO, there was "a bitter floor fight over communism." After this debate, it was voted to ban

Communists, Fascists, Nazis, members of the Ku Klux Klan, and other hate-disseminating organizations from holding any of the 12 offices of the Pennsylvania Industrial Union Council.

Thomas Fitzpatrick led the fight against this ban on the totalitarians and the hate-mongers. His fight against the move was in the strictest conformity with the "line" of the Communist Party. (See New York Times, April 26, 1947.)

Fitzpatrick has not been a frequent joiner of Communist front organizations, but he signed the Civil Rights Congress manifesto defending the Communist Party. (See Daily Worker, May 25, 1947.)

There is sworn testimony given before the Committee on Un-American Activities that Thomas Fitzpatrick is a member of the Communist Party.

Thomas F. Flanagan, business agent, UE local 617, Sharon, Pa., delegate to 1947 and 1948 UE conventions

Thomas Flanagan was a delegate to the 1947 national convention of the American Committee for Protection of Foreign Born, held in Cleveland, October 25-26. He was a member of the resolutions committee of the convention. (See proceedings of the 1947 convention of the ACPFB.) The ACPFB was cited as subversive by Attorney General Clark on September 25, 1948.

Thomas Foley, UE field organizer, Minneapolis

Thomas Foley has been an open member of the Communist Party. In 1932, he ran for attorney general in Minnesota on the Communist Party ticket.

In 1944, Foley sent greetings to the Daily Worker on the occasion of its twentieth anniversary. He wrote: "Cordial greetings to the Daily Worker, a win-the-war labor paper and many more successful anniversaries." (See the Worker, January 9, 1944.)

James Garry, business manager, UE local 1227, delegate to 1947 and 1948 UE conventions

James Garry has been seen going and coming at the national headquarters of the Communist Party.

In 1940, Garry presided over the youth session of the May Day Conference, which was in charge of planning the Communist Party's May Day parade. (See Daily Worker, April 21, 1940.)

On May 26, 1941, the National Labor Committee Against War, an affiliate of the seditious American Peace Mobilization, held a conference in New York City. James Garry was one of the labor union leaders who signed the call to this conference.

Under the auspices of the Civil Rights Congress, Garry signed a manifesto in defense of the Communist Party. (See the Worker, May 25, 1947.)

707 Garry is a member of a Communist-front organization which is known as the Citizens Committee to Defend Representative Government, the object of which is to place Communist Simon W. Gerson on the New York City Council. (See New York Times, February 19, 1948.)

Leo Gaudreau, recording-secretary, UE local 271, Beverly, Mass., delegate to 1947 UE convention

Leo Gaudreau publicly announced his membership in the Communist Party. The Daily Worker of March 28, 1943, printed a letter from Gaudreau which read in part as follows: "I am joining the Communist Party because I am convinced that it is a 100 percent win-the-war prolabor organization."

Carl Geiser, former president, UE local 1227, Long Island City

Carl Geiser is an avowed member of the Communist Party. He went to Spain to aid the Spanish Loyalists in the Civil War in that country. He traveled on passport No. 380318, dated March 29, 1937, and gave his age as 28. Earl Browder testified under oath that 60 percent of the

Americans who went to Spain to fight with the so-called Abraham Lincoln Brigade were members of the Communist Party. The 1938 New York Yearbook of the Young Communist League listed Geiser as one of its members who had fought in Spain. (See page 4.)

In the Daily Worker of December 5, 1946, Geiser signed a protest of the Queens County (New York) Communist Party against the refusal of Borough President Burke to grant the use of the Lost Battalion Hall for an election rally of the Communist Party.

In 1933, the Communists set up a front organization known as the American Committee for Struggle Against War. The executive director of this organization was Donald Henderson, an avowed member of the Communist Party. Carl Geiser was a member of the national committee of this organization. (See appendix IX of the Special Committee on Un-American Activities of the House of Representatives, p. 409.)

Geiser was a member of the arrangements committee which set up the American League Against War and Fascism in September, 1933. This was a Communist-front organization which the FBI, in an official memorandum of May 7, 1942, cited as subversive. The name of the organization was later changed to the American League for Peace and Democracy. (See appendix IX, p. 428.)

Carl Geiser was a member of the National Committee for the Student Congress Against War which was held at the University of Chicago, December 27-29, 1932. It was a part of the Communist-front movement which was launched at Amsterdam, Holland, in August, 1932. (See Appendix IX, p. 1620.)

After his return from Spain, Geiser became executive secretary of the Friends of the Abraham Lincoln Brigade, a Communist-front organization. (See Daily Worker, July 21, 1939.)

Geiser was a speaker for the Sunnyside Peace Council, one of the many predecessors of the American Peace Mobilization. (See Daily Worker, April 18, 1940.)

Samuel Goldberg, business representative, UE local 134, Camden, N. J., delegate to 1947 and 1948 UE conventions

Samuel Goldberg signed the Civil Rights Congress manifesto defending the Communist Party. (See the Worker, May 25, 1947.)

In September 1948, the Civil Rights Congress took a statement to the White House, denouncing the recent indictment of 12 national leaders of the Communist party. Samuel Goldberg was one of the signers of this statement. (See Daily Worker, September 23, 1948.)

The Civil Rights Congress was cited as subversive by Attorney General Clark on September 25, 1948.

Jack Gorelick, field organizer, UE district 1, Scranton, Pa.

Jack Gorelick is a member of the Communist Party. He is a protege of Joseph Dougher, one of the leaders of the Communist Party in Pennsylvania, and a member of the national committee of the party. It was through Dougher's instrumentality that Gorelick received his appointment as a UE organizer.

Gorelick attends the Communist Party meetings, which are held in Ukraine Hall, Scranton, and the executive committee meetings of the Communist Party which are held in the home of Joseph Dougher in Wilkes-Barre. In May 1946, he attended a Communist Party leadership training school in Scranton.

Last year, Gorelick negotiated a UE collective-bargaining contract with the Teleradio Engineering Corp. of Wilkes-Barre.

708 *William Harper, chief steward, UE local 601, Pittsburgh, delegate to 1947 and 1948 UE conventions*

William Harper signed the Civil Rights Congress manifesto defending the Communist Party. (See the Worker, May 25, 1947.)

In September 1948, the Civil Rights Congress took a statement to the White House, denouncing the recent indictment of 12 national leaders of the Communist Party. William Harper was one of the signers of this statement. (See Daily Worker, September 23, 1948.)

The Civil Rights Congress was cited as subversive by Attorney General Clark on September 25, 1948.

Clarence A. Hathaway, business agent, local 1139, Minneapolis, delegate to 1947 and 1948 UE conventions

Clarence A. Hathaway was for many years editor of the Daily Worker. Evidence of how fearful that paper was, and is, of deviating from the correct Moscow line is found in an exchange of cables between Hathaway, as editor, and RUNAG, the official Soviet press bureau, on April 16, 1939, via RCA-Communications.

RUNAG cables Hathaway as follows:

DAIWORK New York for Hathaway Stop Referring to your request Colon Nothing known here about your concrete question Paragraph USSR foreign policy clearly formulated in Stalins report on Eighteenth Party Congress as published SUNWORKER special supplement March 12 page 2 columns 3 and 4 RUNAG.

DAIWORK is the cable address of the Daily Worker.

On October 10, 1940, a sensation was caused by Hathaway's expulsion from the Communist Party while still editor of the Daily Worker and a member of the "big three" central executive committee. His expulsion was for "failure to meet personal and political responsibilities assumed by him; for deserting; and for failing and refusing to take steps to rehabilitate himself."

Hathaway then dropped out of sight for more than a year, when he showed up in New York, to serve a 30-day workhouse sentence for criminal libel. After that time, he kept in the background of party affairs, although being seen at party demonstrations and in conversation with party leaders.

When he popped up, safe in the arms of the UERMWA as business agent, there was ample proof of his readmission to the Communist fold.

Hathaway was a member of the national board of the American League Against War and Fascism, and was prominent in a score of other Communist-front organizations.

Fred Haug, business agent, UE local 707, Cleveland, delegate to 1947 and 1948 UE conventions, former field organizer, UE district 6, Pittsburgh

Fred Haug has been a member of the Communist Party for many years.

Haug was one of the 550 signers of a public manifesto defending the Communist Party issued by the Civil Rights Congress for release on May 25, 1947.

On June 22-23, 1935, the Communist Party held a conference in Washington, D. C. The gathering was known as the National Emergency Conference Against the Government wage program. Five well-known Communist Party members were appointed as a "continuations committee" to carry on the work of this conference. One of the five was Fred Haug. The secretary of the "continuations committee" was Phil Frankfeld who has been a top leader of the Communist Party for about 20 years. (For the official Communist Party report on this conference, see appendix IX, pp. 1217-1221, of the Special Committee on Un-American Activities of the House of Representatives.)

In the elections of 1936, Fred Haug was a candidate for "presidential elector" on the Communist Party ticket in the State of New Jersey. The record of Haug's candidacy is on file in the office of the Secretary of the State of New Jersey.

Haug has been one of the top leaders of the Communist Party in Cleveland, Ohio, since he transferred his activities from New Jersey.

Haug was a signer of a Pittsburgh Peace Proclamation, a forerunner of the American Peace Mobilization. (See Daily Worker, January 3, 1940.)

Frank Hellman, UE leader in Philadelphia

Frank Hellman is a member of the Communist Party and also an alien, having been born in Rumania. Early this year he was arrested for deportation.

In reporting Hellman's arrest, the UE News declared: "A wave of protest is sweeping UE locals all over the country against the Justice Department's deportation campaign against progressive labor leaders." Like
709 all of the official Communist Party publications, the UE News describes the arrested Communists as "progressive labor leaders." (See UE News, March 20, 1948.)

For many years, Frank Hellman was district organizer of the International Workers Order in Philadelphia. The IWO is an auxiliary of the Communist Party and has been cited as subversive by Attorney General Clark.

Hellman was a sponsor of the Tallentire Jubilee Committee, a Communist organization formed to celebrate one of the anniversaries of the veteran Communist Party leader, Norman Tallentire.

C. S. Jackson, UE international vice president, UE district 5, delegate to 1947 and 1948 UE conventions

Clarence S. Jackson is president of the Canadian district of the UERMWA, and by virtue of that position one of the UE international vice presidents.

Early in World War II, the Canadian Government interned Jackson as "a dangerous Communist."

Although Jackson was a delegate to the 1948 convention of the UERMWA, he did not attend. He was stopped at the border and denied entrance into the United States by our immigration authorities.

Leo Jandreau, UE international vice president, president, UE district 3, business agent, UE local 301, Schenectady, delegate to 1947 and 1948 UE conventions

Leo Jandreau has been identified as a member of the Communist Party by Salvatore M. Vottis in sworn testimony before the Committee on Un-American Activities of the House of Representatives. Mr. Vottis testified that he had collected Jandreau's Communist Party dues for a period of 2 or 3 years. Vottis was also financial secretary of UE local 301. According to Vottis, Leo Jandreau was signed up as a member of the Communist Party by Dorothy Loeb, a writer for the Communist Party's Daily Worker. (See hearings of the Committee on Un-American Activities, July 25, 1947, pp. 220-221.)

In January 1948, the Communists set up a front which was called the Citizens Legislative Conference of New York. The Communist character of this conference was fully exposed by Frederick Woltman in the New York World-Telegram. Leo Jandreau was a member of this Communist front organization. (See program, January 10, 1948.)

Leo Jandreau is a member of the National Wallace for President Committee, the outstanding Communist front movement of the present time. (See press release, March 23, 1948.)

Sam Kanter, organizer, UE local 475

Sam Kanter is an avowed member of the Communist Party. Unlike many other members of the Party, Kanter makes no secret of his membership.

Kanter was a speaker for the Communist Political Association, the organization which temporarily replaced the Communist Party from May 1944, to July 1945. (See Daily Worker, September 12, 1944.)

On January 22, 1946, Kanter was one of the featured speakers at a rally of the Communist Party in Brooklyn, N. Y. (See Daily Worker, January 20, 1946.) Headlined on this program with Kanter was Elizabeth Gurley

Flynn, one of the two or three outstanding women Communists in America.

Fred Keller, field organizer, UE district 7, delegate to 1947 and 1948 UE conventions

Fred Keller testified under oath before the Special Committee on Un-American Activities that he went to Spain as a member of the Abraham Lincoln Brigade at the age of 23 and became a "commissar of war." Inasmuch as Earl Browder testified that 60 percent of the members of the Abraham Lincoln Brigade were members of the Communist Party, there is a strong probability that Keller could not have risen to the rank of "commissar of war" unless he had been a member of the Communist Party. Two other UE officials, Anthony DeMaio and Carl Geiser, who also went to Spain with the Abraham Lincoln Brigade have admitted that they were members of the Communist Party.

When Keller returned from Spain, he became an official of the Communist-controlled Friends of the Abraham Lincoln Brigade. (See vol. 13, p. 7780, hearings of the Special Committee on Un-American Activities.)

Keller was also a post commander of the Communist-controlled Veterans of the Abraham Lincoln Brigade. (See Daily Worker, April 21, 1940.)

Keller was a member of the board of directors of the New York branch of the American Committee for Protection of Foreign Born, listed as subversive by Attorney General Clark on September 25, 1948. (See organization's letterhead, January 2, 1941.)

710 Under the auspices of the Civil Rights Congress, Keller signed a manifesto defending the Communist Party. (See the Worker, May 25, 1947.) The CRC is also on Attorney General Clark's latest list of subversive organizations.

John Kelliher, president, UE local 1154, Chicago, delegate to 1947 and 1948 UE conventions

John Kelliher signed the Civil Rights Congress manifesto defending the Communist Party. (See the Worker, May 25, 1947.)

Kelliher sent May Day greetings to the Chicago Star, Communist Party newspaper in Chicago whose name was recently changed to the Illinois Standard. (See Chicago Star, April 26, 1947.)

Alex Kempf, secretary-treasurer, UE local 1119, Chicago, delegate to 1947 UE convention

Alex Kempf signed the Civil Rights Congress manifesto defending the Communist Party. (See the Worker, May 25, 1947.)

Kempf sent May Day greetings to the Chicago Star, Communist Party newspaper in Chicago which is now known as the Illinois Standard. (See Chicago Star, April 26, 1947.)

Morris Kerstein, member negotiating committee, UE Local 430, New York, N. Y., delegate to 1947 UE convention

UE Local 430 has collective bargaining relations with the employers association covering 15,000 employees in radio and radio parts establishments in New York City. Morris Kerstein is one of the important contract negotiators of this UE local.

Morris Kerstein has been identified as a member of the Communist Party in sworn testimony by James Conroy, former member of the party, before the Committee on Un-Aerican Activities of the House of Representatives.

Robert Kirkwood, UE international representative, delegate to 1948 UE convention

Robert Kirkwood was a speaker at the Communist May Day parade in Chicago in 1941. According to the Daily Worker, one of the banners which was featured in the parade was "No Convoys, No AEF." This was in keeping with the line of the Communist Party in that period of the Stalin-Hitler pact. Co-speakers at the parade were Alfred Wagenknecht, then Illinois State secretary of the Communist Party, and Ernest DeMaio, now president of UE district 11. Another slogan featured in the parade,

according to the Daily Worker, was "Free Earl Browder." (See Daily Worker, May 4, 1941.)

Kirkwood signed the Civil Rights Congress manifesto defending the Communist Party. (See the Worker, May 25, 1947.)

Irving Krane, business manager, UE Local 1150, Chicago, delegate to 1947 and 1948 UE conventions

There can be little, if any, doubt that Irving Krane is a member of the Communist Party.

For a number of years, Krane was Illinois State secretary of the International Labor Defense. The ILD was accurately described by the FBI as "the legal arm of the Communist Party," and it follows that any State secretary of the organization would undoubtedly be a member of the Communist Party. (See ILD letterhead, January 20, 1939.) Krane was a delegate to the national conference of the ILD in 1939 in Washington, D. C. (See Equal Justice, July 1939.) He was also a member of the national committee of the International Labor Defense. (See letterhead, December 25, 1939.)

A number of years ago the Communists organized a front which was known as the Better Chicago League. Irving Krane was one of its sponsors. (See Equal Justice February 1939.)

Krane sent greetings to the Chicago Star, Communist Party newspaper, on May Day of 1947. (See Chicago Star April 26, 1947.) Furthermore, he is a member of the Chicago Star (now the Illinois Standard) subscription committee of UE Local 1150, thus indicating a more than casual interest in this Communist Party newspaper. (See Chicago Star, March 20, 1948.)

Under the auspices of the Civil Rights Congress, Krane signed a manifesto defending the Communist Party. (See the Worker, May 25, 1947.) On September 25, 1948, Attorney General Clark listed the Civil Rights Congress as a subversive organization.

711 It is apparent that Irving Krane is one of the Communists in the UERMWA on whom the Communist Party calls for support of its enterprises and front organizations.

Joseph Kres, vice president, UE district 7, business agent, UE Local 735, Cleveland, delegate to 1947 and 1948 UE conventions

According to UE News, Joseph Kres was named to lead CIO-PAC work in Ohio and Kentucky during the 1946 election campaign. He is now a member of the National Wallace for President Committee. (See press release, March 23, 1948.)

In January, 1944, the Daily Worker, newspaper of the Communist Party, celebrated its twentieth anniversary. In two decades which ended that month, the Daily Worker had demonstrated a thousand times over that it was the quisling mouthpiece of the Kremlin in the United States. Despite this evident fact, 144 CIO leaders hailed the paper on its twentieth anniversary. Among them was Joseph Kres.

Kres signed a letter denouncing the Cleveland Press for publishing the names of Ohio signers of Communist Party election petitions. (See Daily Worker, September 19, 1940.)

During the period of the Stalin-Hitler pact, Kres denounced United States naval convoys, in keeping with the Communist Party's position on that question. (See Daily Worker, May 30, 1941.)

Kres was a sponsor of the Schappes Defense Committee, a Communist front organization set up to defend Morris U. Schappes who had been convicted for perjury. (See Daily Worker, October 13, 1941.)

Kres was a signer of the "six-point program" of the Council on African Affairs, a Communist front organization on Attorney General Clark's list of September 25, 1948. (See New Africa, October, 1945.)

Kres sent greetings to the 1945 national conference of the American Committee for Protection of Foreign-Born, an organization also on the Attorney General's latest list of subversive groups. (See the Lamp, November 1945.)

Under the auspices of the Civil Rights Congress, Kres signed a manifesto defending the Communist Party. (See the Worker, May 25, 1947.)

Sam Kushner, business manager UE Local 1119, Chicago, delegate to 1947 and 1948 UE conventions

Sam Kushner's adherence to communism is evidenced by the fact that he sent greetings to the Daily Worker on the occasion of its twentieth anniversary in January 1944.

He also sent May Day greetings to the Chicago Star, a Communist Party newspaper which changed its name to the Illinois Standard in September 1948. (See Chicago Star, April 26, 1947.) He has contributed an article to the Chicago Star. (See issue of August 21, 1948.)

Kushner signed the Civil Rights Congress manifesto defending the Communist Party. (See the Worker, May 25, 1947.) He is head of the labor committee of the Illinois Civil Rights Congress. (See Chicago Star, February 28, 1948.) The CRC was listed as subversive by Attorney General Clark on September 25, 1948.

Milo Lathrop, legislative representative, UE district 3

Milo Lathrop has been identified as a member of the Communist Party in testimony before the Committee on Un-American Activities. In this testimony, he was alleged to have been secretary of the Yale University unit of the Communist Party.

Several years ago, Lathrop was on the staff of Consumers Union with the designation of field representative. (See Consumer Reports, November 1942.) Consumers Union is the Communist front organization whose director is Arthur Kallet who used the Communist Party alias "Edward Adams."

Lathrop was a speaker for the League of Women Shoppers, a Communist front organization. (See New York Herald Tribune, September 28, 1941.)

James Lerner, staff writer, UE News

James Lerner's by line appears frequently in the UE News, official organ of the UERMWA.

Lerner joined the Young Communist League many years ago. He was a sponsor of the YCL-controlled American Committee for the International Student Congress Against War and Fascism. (See program, December 29, 1934.)

Lerner was a member of the national executive committee of the American League Against War and Fascism, a Communist-front organization cited as subversive by Attorney General Clark on September 25, 1948. (See organization's letterhead, August 22, 1935.) He was also a member of the secretarial staff of the American League Against War and Fascism.

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Lerner was a member of the national council of the Communist-controlled American Youth Congress.

He was a staff member of Champion, official organ of the Young Communist League.

As a member of the YCL-controlled International Youth Commission, Lerner was a visitor to Spain during the civil war in that country.

Lerner was a delegate to the Communist-controlled World Youth Congress which was held at Vassar College in August 1938.

Richard Linsley, international representative, UE district 2

Richard Linsley's Communist connections are such as to make it reasonably clear that he is a Communist.

In July 1943, Linsley was a member of the Greater Boston Reception Committee to the Russian delegation.

Richard Linsley was a member of the Committee to Sponsor the Daily Worker and the Worker 1945 fund campaign. This connection alone would make it clear that

Linsley is a Communist, by any reasonable definition of that word.

Linsley was also a member of the Reichstag Fire Trial Anniversary Committee whose announced purpose was the honoring of George Dimitroff, head of the Communist International.

Linsley is a member of the board of trustees of the Samuel Adams School for Social Studies, the Communist Party's training school in Boston.

In 1941, Linsley sent an Armistice Day message to President Roosevelt pledging "all production," thus reflecting the change in the Communist Party "line" which occurred on June 22, 1941, when Hitler attacked the Soviet Union. (See Daily Worker, November 11, 1941.)

Stanley Loney, UE international vice president; president, UE district 6; delegate to 1947 and 1948 UE conventions

Stanley Loney is a member of the National Wallace-for-President Committee, by far the outstanding Communist-front movement of the present time.

Early this year when Loney succeeded Thomas J. Fitzpatrick as president of UE district 6, the district council urged all its locals to give "serious thought" to the candidacy of Henry A. Wallace. The Communist Party is the most influential group in the Wallace-for-President movement, and the UERMWA is the largest single reservoir of votes for the Progressive Party.

Stanley Loney was a delegate to the 1947 national conference of the American Committee for Protection of Foreign Born, the oldest Communist-front organization in the United States and one of the subversive organizations listed by Attorney General Clark on September 25, 1948. Loney was a member of the nominating committee of the 1947 conference of the ACPFB. (See Proceedings of the conference.)

Lee Landgren, international representative, UE local 1150; delegate to 1947 and 1948 US conventions

Lee Landgren sent May Day greetings to the Chicago St..., Communist Party newspaper in Chicago. (See Chicago Star, April 26, 1947.)

He is a member of the subscription committee of the Chicago Star (now the Illinois Standard) in UE local 1150. (See Chicago Star, March 29, 1948.)

James Lustig, UE representative, district 4, delegate to 1947 and 1948 UE conventions

James Lustig is one of the most important of the many Communist Party members who hold strategic positions in the United Electrical, Radio, and Machine Workers of America. Lustig has not concealed his membership in the Communist Party, as have many others. In 1931, he was candidate for alderman in the Bronx on the Communist Party ticket.

In 1933, Lustig was organizer for the Steel and Metal Workers Industrial Union. This union was one of the affiliates of the Trade Union Unity League, the federation of Communist unions in the days when the Communist Party maintained its own trade-union organizations. Lustig publicly endorsed the Communist Party program, and said "Only the Communist Party as the party of the working class represents the interests of the entire working population." (See Daily Worker, November 6, 1933.)

713 Lustig was a delegate to the eighth convention of the Communist Party in 1934, and his convention speech was published in the May-June issue of Party Organizer that year.

Lustig was one of the 144 CIO Communist leaders who hailed the Daily Worker on its twentieth anniversary in 1944. (See the Worker, January 9, 1944.)

Lustig was a sponsor of the seditious American Peace Mobilization, and its meeting of April 5, 1941.

He was also a sponsor of a Communist front organization which was known as the Citizens Emergency Conference for Interracial Unity.

He was a member of the Trade Union Committee to Elect Win-the-War Candidates, a Communist-front organization.

In October 1937, James Lustig and his fellow officers in what was then known as district 12 of the United Electrical and Radio Workers of America urged all their affiliated locals to send delegates to the Pittsburgh congress of the American League Against War and Fascism.

In 1940, Lustig was a member of the Provisional May Day Committee, the Communist group which planned the party's May Day parade and other celebrations. (See Daily Worker, March 23, 1940.)

He was a participant in the Communist Party's April 6 peace rally in 1940. This was one of the nation-wide affairs which led up to the formation of the American Peace Mobilization.

On the occasion of the twenty-fourth anniversary of the Bolshevik Revolution, Lustig hailed the Soviet Union and joined in the Kremlin's cry for "a second front." (See Daily Worker, November 9, 1941.)

As a member of the national board of the Joint Anti-Fascist Refugee Committee Lustig has been convicted of contempt of Congress.

In 1947, the National Council of American-Soviet Friendship called a joint conference against intervention in Greece and Turkey. Lustig was made a member of the continuation committee of the conference. (See Daily Worker, March 19, 1947.) Lustig's participation in this affair was simply one of an endless series of ways in which the leaders of the UERMWA have demonstrated their subservience to the foreign policy of the Kremlin.

Lustig has been a sponsor of the American Russian Institute, a Communist front which disseminates pro-Soviet propaganda.

Walter Mandra, recording secretary, UE Local 1119, Chicago

Walter Mandra sent May Day greetings to the Chicago Star (now renamed the Illinois Standard), the Communist

Party newspaper of Chicago. (See Chicago Star, April 26, 1947.)

Mandra signed the Civil Rights Congress manifesto defending the Communist Party in May 1947. (See the Worker, May 25, 1947.) The Civil Rights Congress was cited as subversive by Attorney General Clark on September 25, 1948.

James E. Marino, field organizer, UE district 2

James E. Marino teaches at the Samuel Adams School for Social Studies, the Communist Party's training school in Boston. This undoubtedly means that he is a member of the Communist Party.

Marino was affiliated with the seditious American Peace Mobilization which carried out the Communist Party "line" in the period of the Stalin-Hitler Pact. According to the Daily Worker (May 2, 1941), James E. Marino was a delegate to the convention of the American Peace Mobilization which was held in New York City on April 6, 1941.

While attending the convention of the American Peace Mobilization, Marino affiliated himself with the Citizens Committee to Free Earl Browder.

Marino was a speaker for the Massachusetts Peace Council, an affiliate of the American Peace Mobilization. (See Daily Worker, June 19, 1941.)

Lemuel Markland, UE international vice president, president, UE district 7, delegate to 1947 and 1948 UE conventions

Lemuel Markland is a member of the National Wallace for President Committee, the outstanding Communist front movement at the present time. (See press release, March 23, 1948.)

Markland signed the Civil Rights Congress manifesto denouncing the recent indictment of 12 national leaders of the Communist Party. (See Daily Worker, September 23, 1948.)

714 *Sidney Mason, business manager, UE Local 547, delegate to 1947 UE convention*

Sidney Mason's record discloses that he is one of the numerous Communists who occupy strategic leadership of the UERMWA.

According to the Daily Worker (June 6, 1946), Sidney Mason is a member of the executive committee of the American Jewish Labor Council. This council is not even thinly veiled as a Communist organization. The majority of its 15 members are well-known members of the Communist Party. With one exception, all of the others are well-known adherents of the Communist Party line in all matters. This single exception is M. Hedley Stone. For years Stone also followed the Communist Party line, but as treasurer of the National Maritime Union he has recently broken with the Communist Party leadership along with NMU's president, Joseph Curran.

Mason was a member of the Citizens Committee to Free Earl Browder. This committee was an auxiliary of the Communist Party, having the objective of securing the release of Earl Browder from the Atlanta Federal prison (see Daily Worker, December 28, 1941).

He was also a sponsor of the Committee for Jewish Writers and Artists. This committee was organized in the summer of 1943 to support the propaganda mission of two Soviet Government agents, Solomon Michoels and Itzik Feffer, who were sent to this country to counteract the adverse effect which the Soviet executions of Ehrlich and Alter, Polish Socialists, occasioned in the United States. The committee sponsored a meeting at the Polo Grounds on July 8, 1943.

Sidney Mason was one of the 144 CIO Communist leaders who publicly hailed the Daily Worker on the occasion of its twentieth anniversary in January 1944. The Daily Worker is the seditious newspaper of the Communist Party.

Mason was also a member of the executive committee of the Brooklyn Non-Partisan Legislative Conference, a Com-

munist-front organization which convened in Brooklyn, N. Y., on Febraury 27, 1944. The chairman of this organization was the pro-Communist clergyman, William Howard Melish. It numbered among the members of its executive committee well-known Communists such as Peter V. Cacchione, Leo J. Linder, and Arthur Osman.

Mason has been a sponsor of the American Russian Institute, a Communist-front propaganda agency.

Mason was a member of the resolutions committee of the 1947 Cleveland national conference of the American Committee for Protection of Foreign Born, an organization cited as subversive by Attorney General Clark.

Dave Mates, district representative, UE district 9, delegate to 1947 and 1948 UE conventions

A number of the veterans of the Abraham Lincoln Brigade who fought in Spain have obtained jobs with the UERMWA. Dave Mates is listed by the State Department as one of those who went to Spain during the civil war in that country. Earl Browder testified before the Special Committee on Un-American Activities that 60 percent of the members of the Abraham Lincoln Brigade were members of the Communist Party.

Ashton Marshall, negotiator, UE Local 475

Ashton Marshall was a delegate to the meeting of the American Peace Mobilization which convened in New York City on April 6, 1941. It will be recalled that the APM was the notorious Communist-front organization which propagandized for the Communist Party line during the period of the Stalin-Hitler pact. It is hardly possible that any of those who participated in the activities and meetings of the APM were unaware of its completely Communist complexion (see Daily Worker, May 2, 1941).

Ashton Marshall signed a petition of the Citizens Committee to Free Earl Browder while he was in attendance, as a delegate, at the meeting of the American Peace Mobilization.

William Mastriana, chief shop steward, UE Local 301, Schenectady, delegate to 1947 and 1948 UE conventions.

William Mastriani has been identified as a member of the Communist Party by Salvatore M. Vottis in sworn testimony before the Committee on Un-American Activities of the House of Representatives (see hearings, July 25, 1947, p. 221). Vottis was financial secretary of the Communist Party in Schenectady for a period of 9 years.

Mastriani signed the Communist Party's nominating petition in 1946.

The position of chief shop steward in local 301 of the UERMWA is of the greatest importance, inasmuch as this local represents some 13,000 members in the highly
715 important General Electric plant in Schenectady, N. Y. The evidence that William Mastriani, who holds this position, is a member of the Communist Party is overwhelming.

Matthew Matison, field organizer, UE district 2

Matthew Irving Matison went to Spain as a member of the Abraham Lincoln Brigade in 1937 at the age of 23. He was another of the members of this Communist-controlled outfit who graduated into the ranks of UE officials.

In keeping with the Communist Party line of the day, Matison participated in a Boston demonstration demanding a second front in 1942 (see Daily Worker, May 7, 1942).

James Matles, UE Director of Organization

Since his retirement from the armed forces in October 1945, the power of James Matles in the UERMWA has grown by leaps and bounds. It is safe to say that neither Albert J. Fitzgerald nor Julius Emspak is a more dominant figure in the affairs of the UERMWA than James Matles. He was a key figure in the union prior to his entering the armed forces of this country.

James Matles, although still a young man, is an old-time Communist. At the age of 24 (in 1933), he had already

attained prominence as a Communist leader in the trade-union field. At that time he was secretary of the Steel and Metal Workers Industrial Union. This latter union was an affiliate of the Trade Union Unity League. In those days the Communist Party had its own federation of trade-unions known as the Trade Union Unity League which was headed by William Z. Foster, national chairman of the Communist Party.

According to the Daily Worker of November 6, 1933, James Matles publicly endorsed the program of the Communist Party.

The best evidence that Matles is a Communist is to be found in the following statement which he signed for release to the press: "Only the Communist Party as the party of the working class represents the interests of the entire working population * * *."

Matles and three of his fellow officers in the UERMWA sent greetings to the American Slav Congress in August 1944. The American Slav Congress is the principal Communist-front organization for persons of Slavic descent in the United States. It has been cited as subversive by Attorney General Clark.

Numerous former Communist Party members are able to identify Matles as a member of the party. He is still an alien, having been born in Hungary and never naturalized.

Edward Matthews, UE international representative, delegate to 1947 UE convention

Edward Matthews is international representative of the United Electrical, Radio, and Machine Workers of America, CIO, in charge of that union's dealings with Westinghouse. That highly responsible position makes it clear that Matthews is one of the key figures in the UERMWA.

Matthews was a member of the National Labor Committee Against War, an affiliate of the seditious American Peace Mobilization.

New significance has been added to affiliation with the American Peace Mobilization by virtue of a recent decision of the United States Supreme Court. One Morton Friedman was dismissed from his Federal job with the War Manpower Commission because he had been affiliated with the APM. Friedman appealed his case to the courts, which sustained the Government. The case was carried to the Supreme Court, which, in the middle of March, 1947, refused to review it, thus, in effect, upholding the verdict of the lower courts.

Matthews has been identified as a member of the Communist Party in sworn testimony before a congressional committee.

William Mauseth, field organizer, UE Local 1146, Minneapolis delegate to 1948 US convention

William Mauseth is a self-declared member of the Communist Party (see New Leader, January 3, 1948).

Mauseth was a speaker for the Communist-controlled Civil Rights Committee in Minneapolis (see Sunday Worker, May 5, 1940).

He was a member of the Minnesota State Committee To Free Earl Browder (see Daily Worker, November 8, 1941).

He was also a signer of the nationally organized Citizens Committee To Free Earl Browder (see Sunday Worker, January 25, 1942).

716 On the twentieth anniversary of the Daily Worker, Mauseth sent his greetings to that newspaper of the Communist Party (see the Worker, January 9, 1944). Mauseth wrote the Daily Worker, as follows: "Please accept my greetings and congratulations upon the twentieth anniversary of your service to the American labor movement. Yours for speedy victory over the enemies of the people."

Mauseth was 1 of the 550 signers of the Civil Rights Congress Manifesto defending the Communist Party (see the Worker, May 25, 1947).

Victoria Mazzie, field organizer, UE local 1225, field organizer, UE Local 475

Victoria Mazzie is a member of the Communist Party. In 1940, she was described as a member of the Young Communist League in an article in the Daily Worker which told of a protest rally in front of the French consulate in New York. Speakers at this Communist Party demonstration included Robert Minor and Peter V. Cacchione (see Daily Worker, April 10, 1940).

Victoria Mazzie was also a candidate for Congress from Brooklyn on the Communist Party ticket (see Daily Worker, August 5, 1940).

Clifford T. McAvoy, UE international representative

Clifford T. McAvoy has been identified as a member of the Communist Party by Salvatore M. Vottis in sworn testimony before the Committee on Un-American Activities of the House of Representatives (see hearings, July 25, 1947).

McAvoy was ousted from his position as deputy welfare commissioner of New York City as a result of charges of communism against him.

McAvoy has long been known as a veteran Communist fellow traveler, even if not a member of the Communist Party. His affiliations with Communist-front organizations include the following:

American Committee for Protection of Foreign Born.
American Society for Cultural Relations with Italy.
Citizens Committee for Harry Bridges.
Citizens Emergency Conference for Interracial Unity.
Committee for Citizenship Rights.
Committee for Equal Justice for Mrs. Recy Taylor.
Council for Pan American Democracy.
National Council of American-Soviet Friendship.
National Federation for Constitutional Liberties.
New York Committee for Protection of Foreign Born.
New York Conference for Inalienable Rights.

New York State Conference on National Unity.
Open Letter for Closer Cooperation with the Soviet Union.
Schappes Defense Committee.
School for Democracy.
Soviet Russia Today.
Statement Defending the Communist Party.
Statement Against United States Policy in Mexico.
Veterans of the Abraham Lincoln Brigade.
Win-the-Peace Conference.

Bernard J. McDonough, president, UE Local 1119, Chicago, delegate to 1947 and 1948 UE conventions

Bernard J. McDonough is unquestionably a member of the Communist Party. This conclusion is based on the fact that he is the president of the People's Publishing Association, the organization which published the Communist Party newspaper in Chicago, the Chicago Star (see Chicago Star, May 15, 1948).

McDonough is candidate for auditor in Illinois on the Progressive Party ticket, the party of Henry A. Wallace and the Communists (see Chicago Star, May 15, 1948).

McDonough signed the Civil Rights Congress manifesto defending the Communist Party (see the Worker, May 25, 1947).

James McLeish, international UE vice president, president, UE district 4, delegate to 1947 and 1948 UE conventions

James McLeish's record of Communist affiliations is such as to mark him definitely as a Communist.

In May 1946, McLeish was a sponsor of a conference, held in Newark, N. J., for the purpose of raising funds for the Communist Party's newspaper, the Daily Worker. This affiliation alone is sufficient to indicate where McLeish's ideological sympathies lie. He was also a member of the Committee to Sponsor the Daily Worker and the Worker 1945 fund campaign. In January 1944,

717 McLeish was one of 144 CIO Communist leaders who publicly hailed the Daily Worker on the occasion of its twentieth anniversary.

McLeish was a participant in the April 6 peace rally (1940) which was staged by the Communists as a part of a nation-wide movement leading up to the formation of the seditious American Peace Mobilization. Always obedient to the line of the Communist Party, McLeish hailed the twenty-fourth anniversary of the Bolshevik Revolution and joined the Kremlin's cry for "a second front." This latter position taken by McLeish was diametrically opposed to his position at the April 6 peace rally.

Under the auspices of the Civil Rights Congress, McLeish signed a public manifesto in defense of the Communist Party (see the Worker, May 25, 1947). The Civil Rights Congress appears on Attorney General Clark's list of subversive organizations.

He was also affiliated with the Citizens Committee to Free Earl Browder. He was a member of the Citizens Nonpartisan Committee for the reelection of Benjamin J. Davis, Jr., to the city council. Davis is a publicity avowed member and leader of the Communist Party.

McLeish was also affiliated with the Committee for Jewish Writers and Artists, a Communist-front organization which staged a pro-Soviet rally at the Polo Grounds, New York City, in 1943.

He was a sponsor of the End Jim Crow in Baseball Committee.

In December 1943, McLeish was a member of the Reichstag Fire Trial Anniversary Committee which was set up to honor Georgi Dimitrov, former head of the Communist International.

Wesley Mitchell, executive board member, UE district council 4, delegate to 1947 and 1948 conventions

Wesley Mitchell sent May Day greetings to the Daily Worker in 1946 when he was a member of the strike com-

mittee at the Phelps-Dodge plant at Elizabeth, N. J. (see Daily Worker, April 28, 1946).

Mitchell signed the Civil Rights Congress manifesto defending the Communist Party (see the Worker, May 25, 1497).

Herbert Morais, UE research assistant, international office

The Rapp-Coudert committee of the New York State Legislature found in 1942 that Herbert Morais, then a member of the faculty of Brooklyn College, was a member of the Communist Party. As a result of his exposure by the Rapp-Coudert committee, Morais was forced out of his position in Brooklyn College. The committee found that Morais used the Communist Party alias "Richard Enmale." The name "Enmale" was derived from the first syllables of the names of Engels, Marx, and Lenin—the three founding fathers of the Communist movement.

Today, Herbert Morais is a member of the faculty of the Jefferson School of Social Science. This is the Communist Party's training school which is on Attorney General Clark's list of subversive organizations.

A few years ago, International Publishers brought out a volume of Jack Hardy which was entitled "The First American Revolution." Jack Hardy's real name is Dale Zysman. Under the latter name, he taught in the New York public schools until his membership in the Communist Party was highlighted by exposures of the Special Committee on Un-American Activities of the House of Representatives and later by the Rapp-Coudert committee of the New York State Legislature. The First American Revolution was a part of the Communist Party's program to rewrite American history according to the theories of communism. Herbert Morais, under the alias of Richard Enmale, wrote the preface to Jack Hardy's First American Revolution.

Herbert Morais was an editor of New Currents. New Currents was the organ of the American Committee of Jewish Writers, Artists and Scientists. It was subsidized

by the Sound View Foundation, repository of Communist Party funds. The Sound View Foundation was headed by three well-known Communists, Alfred Hirsch, Robert W. Dunn, and Joseph R. Brodsky. It dispensed funds to Communist enterprises only. For example on April 20, 1943, it made out a check to the Daily Worker for $1,000.

Morais has written for the Communist Party's New Masses (see issue of June 11, 1946). He has been a contributing editor of the Communist quarterly, Science & Society, and contributed an article entitled "Marx and Engels on America" to the winter 1948 issue of that publication.

Morais' position in the UE organization is one of great strategic importance. He is assistant to James Maties.

718 *Sylvia Muth, member executive Board, UE Local 103, Camden, N. J., delegate to 1947 UE convention*

Sylvia Muth was a delegate to the 1941 convention of the American Peace Mobilization and a signer of the petition of the Citizens Committee to Free Earl Browder, both of which organizations were notoriously controlled by the Communist Party (see Daily Worker, May 2, 1941).

Miss Muth is a member of the small Communist group which controls UE Local 103, the local of the UERMWA which has collective-bargaining relations with the very important Radio Corp. of America at Camden, N. J.

Tom Neill, business agent, UE Local 427, Hoboken, N. J., former executive secretary, UE national veterans committee

At the height of the Communist sabotage strikes in this country during the period of the Stalin-Hitler pact, Tom Neill signed a statement defending the Communist Party which received a full-page spread in the Daily Worker (see Daily Worker, March 5, 1941).

Neill was one of the American delegates to the World Youth Conference held in London, October 31 to November 9, 1945. This gathering was under the complete domina-

tion of Communists from many countries. It set up a new Communist international called the World Federation of Democratic Youth.

Neill signed the Civil Rights Congress manifesto defending the Communist Party (see the Worker, May 25, 1947).

Russell Nixon, UE Washington legislative representative

As early as 1940, Russell Nixon appeared as one of the signers of a petition to Governor Olson of California, to free Sam Darcy. Darcy, whose real name is Dardeck, had been extradited by the State of California from Pennsylvania where he was State chairman of the Communist Party. Darcy was wanted in California for false registration as a voter in 1934. This petition was circulated and published by the National Federation for Constitutional Liberties. This latter organization was cited as subversive by Attorney General Clark. The NFCL was subsequently merged, in the spring of 1946, with the International Labor Defense to form the Civil Rights Congress, also on Attorney General Clark's list.

Came the war, and it was the same old story. In spite of his obvious Communist connections, Nixon was given a commission in the Army. He was released from military service when wires were pulled for his appointment to an extremely important office, namely, that of American member of the German external-property commission, with the assent of the State Department. Although he was the American member of this commission, Nixon listened to his Moscow master's voice and fought furiously for Russian participation in the search for German assets in western Europe. When defeated on this Soviet-inspired front, he resigned with a blast against the State Department, charging, among other things, a plot against Russia. The State Department promptly abandoned diplomacy long enough to call Nixon a liar, in effect.

Immediately on his resignation from his post in Germany, Nixon resumed his job with the UERMWA in Washington, and again became active in Communist-front organizations.

He was a member of the resolutions committee of the Win-the-Peace Conference held in Washington in April 1946. This was the conference where one of the principal Communist fronts of recent years was launched, namely, the National Committee To Win the Peace.

In February 1946, Nixon was the principal speaker at a mass meeting in Washington, D. C., under the auspices of the International Workers Order which the FBI had called one of the largest of the Communist-front organizations.

During the war, Nixon was a principal speaker for the National Wartime Conference of the Professions, the Sciences, the Arts, etc. This, too, was an obvious front of the Communist Party.

Nixon was a speaker at the Communist May Day Rally in Philadelphia in 1946. One of his colleagues on the program was Louis Weinstock, a member of the national committee of a Communist Party (see the Worker, April 28, 1946).

He was a sponsor of a Communist front which called itself the National Conference on the German Problem (see official press release, March 6, 1947).

He was a speaker for the Civil Rights Congress, one of the organizations listed as subversive by Attorney General Clark (see Daily Worker, October 6, 1947).

He was affiliated with the National Council of American-Soviet Friendship, also branded as subversive by Attorney General Clark (see Soviet Russia Today, November 1947).

719 Nixon participated in the National Legislative Conference on Naturalization and Deportation which was held in Washington at the call of the American Committee for Protection of Foreign Born (see the Lamp, January-February 1948).

He has contributed articles to the Communist magazine, Soviet Russia Today, issues of January, March, May, and June, 1948.

He was a speaker in Chicago for the Communist front which called itself the Committee To Defend the Bill of Rights (see Chicago Star, June 5, 1948).

Andrew Overgaard, business agent, UE Local 420

Andrew Overgaard has been a member of the Communist Party for many years.

In 1933, Overgaard publicly declared his support of the Communist Party program along with such UE leaders as James Matles and James Lustig (see Daily Worker, November 6, 1933).

In 1934, Overgaard was secretary of the Trade Union Unity Council, a Communist Party organization headed by William Z. Foster.

Overgaard supported the friends of the Soviet Union. He had gone to Moscow as a delegate to the Red international of labor unions.

Victor Pasche, leader, UE Local 301, Schenectady

Victor Pasche is a member of the editorial committee which publishes the Electrical Union News, official organ of local 301 at the General Electric plant in Schenectady, N. Y.

Pasche has been associated with Communist-front groups for a number of years. In 1940, he was a sponsor of the American Committee for Democracy and Intellectual Freedom when that Communist-front organization was agitating against the Rapp-Coudert investigation into communism in the State-supported schools of New York.

In 1938, considerable publicity centered on the issue of Simon W. Gerson's position as administrative assistant to the borough president of Manhattan. Victor Pasche was one of the Communists and fellow travelers who rushed to the defense of Gerson (see Daily Worker, February 10, 1938).

Henry Phillips, delegate to 1947 UE convention from UE Local 424

Henry Phillips attended a Communist Party training school for UE organizers in February 1938. At the conclusion of the course of study, Phillips and his fellow students (one of whom was Ruth Young) adopted a resolution calling for the building of a more powerful Communist Party looking toward a Communist revolution in the United States.

Ernst Pollock, business agent, UE Local 437, Newark, delegate to 1947 and 1948 UE conventions

Ernst Pollock signed the Civil Rights Congress manifesto defending the Communist Party. (See The Worker, May 25, 1947).

Pollock also signed the Civil Rights Congress statement denouncing the recent indictment of 12 national leaders of the Communist Party. (See Daily Worker, September 23, 1948.)

On September 25, 1948, Attorney General Clark cited the Civil Rights Congress as a subversive organization.

Sol Potegal, business manager, UE Local 427, Bayonne, N. J.

Sol Potegal and his fellow officers of what was then known as District 12 of the United Electrical and Radio Workers endorsed the American League Against War and Fascism in a letter dated October 6, 1937.

Potegal was affiliated with the Citizens Committee To Free Earl Browder. (See Daily Worker, March 16, 1942.)

Potegal sent greetings to the Daily Worker on the occasion of the twentieth anniversary of that Communist Party newspaper. (See The Worker, January 9, 1944.)

James Price, UE international vice president, UE president, District 1, delegate to 1947 and 1948 UE conventions

James Price is a member of the National Wallace-for-President Committee, the outstanding Communist-front movement at the present time. (See press release, March 23, 1948.)

Price sponsored the Communist-controlled United May Day Conference in Philadelphia in 1946. (See Daily Worker, April 4, 1946.)

Price signed the Civil Rights Congress manifesto defending the Communist Party. (See the Worker, May 25, 1947.)

720 *Archie Rappaport, leader, UE District 4*

Archie Rappaport was a student in a Communist Party training school for UE leaders in February 1938. At the conclusion of the course of study Rappaport and his fellow students adopted a resolution calling for a more powerful Communist Party and looking toward a Soviet America.

Rappaport was a delegate to the convention of the American Peace Mobilization in April 1941. At the meeting of this notorious Communist-controlled organization he signed a petition of the Citizens Committee to Free Earl Browder. (See Daily Worker, May 2, 1941.)

Marie J. Reed, business agent, UE local 735, Cleveland, delegate to 1947 and 1948 UE conventions

At the height of the Communist sabotage strikes during the period of the Stalin-Hitler pact in 1941, Marie J. Reed signed a statement in defense of the Communist Party, a statement which received a full-page spread in the Daily Worker. (See Daily Worker, March 5, 1941.)

Under the auspices of the Civil Rights Congress, Miss Reed signed a manifesto defending the Communist Party. (See the Worker, May 25, 1947.)

Henry Rhine, UE international representative, delegate to 1947 and 1948 UE conventions

Henry Rhine works for the UERMWA in the eastern Pennsylvania region or UE District 1. He is a member of the Communist Party.

Late in 1933 Rhine was appointed a junior assistant in the NRA in Washington, D. C. For 6 years he was national organizer of the United Federal Workers of America, CIO. Since 1943 he has been working for the UERMWA in district 1.

Rhine has been a teacher at the Philadelphia School of Social Science and Art, the Communist Party's training school in Philadelphia.

Rhine is prominent in UE negotiations with the important Radio Corp. of America.

Ben Riskin, UE international representative, delegate to 1948 UE convention

Ben Riskin has been a member of the Communist Party for many years. His party membership book, issued for the year 1943, was numbered 37414 and was made out to "R. Burns."

Riskin was the originator of the idea of the portal-to-portal suits.

In 1935 he was an associated editor of the New Order, official organ of the International Workers Order. The IWO is an auxiliary of the Communist Party. An official memorandum of the FBI, dated May 7, 1942, described the International Workers Order as "one of the strongest Communist organizations." The masthead of the New Order for April-May 1935, shows Ben Riskin as one of the magazine's associate editors. The table of contents given on this masthead indicates that Ben Riskin was the author of an article entitled "May 1, 1935." This issue of the New Order was a special May Day issue.

Excerpts from Riskin's article in the New Order read as follows:

"Over one-sixth of the earth has been established a workers' and farmers' land, rising with incredible speed to a state of real general security and comfort, crowned with an ever-growing richness of science and life.

"Like rats in a corner, the bosses with their backs against the wall resort to their last resort—war. They hope to distract the attention of the workers from them to 'foreign foes'—that is, to brother workers, gleefully hoping that the damned nuisances will end the problem of unemployment by killing one another off and make lots of profits for the bosses through munitions and high prices on necessities in the meantime.

"And thus we find our present problems already outlined. * * * They are the fight against imperialist war and thus for the defense of Soviet Russia and Soviet China, the only workers' and farmers' lands."

These quotations clearly reflect Riskin's Communist attitudes toward American industry and leave no doubt whatever that Riskin is a member of the Communist Party.

In 1937 Riskin was on the staff of People's Press, a Communist Party-line publication which was used as the official organ of the UERMWA.

Subsequently People's Press changed its name to Trade Union Service, Inc. The latter is now located at 17 Murray Street, New York, N. Y., and is the publisher of UE News,
official weekly organ of the United Electrical, Radio,
721 and Machine Workers of America. Trade Union Service, Inc., is owned by a group of Communists and fellow travelers which includes Corliss Lamont and Frederick Vanderbilt Field.

Charles Rivers, executive secretary, UE District 3, delegate to 1947 and 1948 UE conventions

Witnesses are available who can testify of their own personal knowledge that Charles Rivers is a member of the Communist Party. Rivers was on the scene in Schenectady in the early days of the organization of UE Local 301 in that General Electric city.

Rivers and his fellow officers of the United Electrical and Radio Workers endorsed the American League Against War and Fascism in a letter dated October 6, 1937.

Rivers signed a petition of the Citizens Committee To Free Earl Browder. (See Daily Worker, November 15, 1941.)

Anthony Salese, president, Local 430, New York City, delegate to 1947 UE convention

Local 430 of the United Electrical, Radio, and Machine Workers of America (CIO) is one of the most important locals in the whole UERMWA, having bargaining representation for 15,000 radio and radio-parts employees in New York City.

According to the Daily Worker of March 5, 1947, Anthony Salese (also known as Tony) was a member of the Provisional May Day Committee.

This committee had charge of all arrangements for the Communist Party's May Day parade and celebrations in New York City. There was no secret whatever about this committee's being the instrument of the Communist Party.

It is clear from the personnel of the Provisional May Day Committee that it was the agent of the Communist Party. Most of he members of the committee are publicly avowed members of he Communist Party. The rest are Communist fellow travelers. Other radicals, such as Socialists, are conspicuous by their absence.

Among the more prominent members of the Communist Party who served with Salese on this committee were the following: Irving Potash, Jack Paley, Sam Burt, Revels Cayton, Albert Kahn, Lewis Weinstock (member of the national committee of the Communist Party), Rockwell Kent (president of the International Workers Order), Bonita Williams, Esther Letz, and Leon Wofsy.

Salese's membership on the Provisional May Day Committee clearly identifies him as a Communist. Whether he holds a Communist Party membership card or not is beside the point.

During the present year, Anthony Salese has served as a member of the Communist-front organization which bears the imposing title of Citizens Committee To Defend Representative Government. The objective of this front is to gain a seat on the New York City Council for Communist Simon W. Gerson.

In February of this year Salese was a sponsor of the National Youth Assembly Against Universal Military Training, a Communist-front organization set up to serve the ends of the Kremlin.

Marcel Scherer, UE representative, District 4 delegate to 1947 US convention

Marcel Scherer is a veteran member of the Communist Party. His membership in the party is established conclusively by the fact that he ran for alderman on the Communist Party ticket in Brooklyn in 1931. (See Daily Worker, November 3, 1931.)

During the First World War, Scherer was dismissed from Erasmus Hall High School in New York for pacifist agitation. He was at that time an active member of the Young People's Socialist League. In 1919, he achieved notoriety as an agitator at the City College of New York.

On September 11, 1939, Benjamin Gitlow, former secretary of the Communist Party, testified under oath concerning Scherer, as follows: "Scherer has held all kinds of positions in the Communist Party. He has held various positions as a section organizer and has been assigned by the executive committee to all kinds of party work; he is one of the oldest and most trusted members of the Communist Party." On October 13, 1939, Maurice Malkin, a former member of the Communist Party, testified before the Special Committee on Un-American Activities concerning Marcel Scherer, as follows: "The leader of that (FAECT) is Marcel Scherer, a charter member of the Communist Party; joined the Communist Party at Williamsburg branch, Brooklyn, 1919."

722 One of the most strategic assignments ever given Scherer by the Communist Party was the national secretaryship of the Friends of the Soviet Union, the Communist-front predecessor of the National Council of American-Soviet Friendship. The FSU maintained a special department for the sending of technological information, industrial and military, to the Soviet Union. This work has been carried on previously, beginning in 1921, by the Society for Technical Aid to Soviet Russia, one of the very first Communist-front organizations in this country which was later merged into the FSU. The Society for Technical Aid to Soviet Russia was set up in this country by A. A. Heller on specific instructions from Moscow. Its purpose was to cultivate and woo American scientists and technicians in the hope that they would provide Soviet Russia with our industrial, scientific, and military secrets and processes. Any information which they were willing to pass on to Russia was sent through the medium of Heller's organization, and later through Marcel Scherer's FSU.

After his work with FSU, Scherer became one of the founders and international vice president of the Federation of Architects, Engineers, Chemists and Technicians (FAECT), an affiliate of the CIO which is now a division of the United Office and Professional Workers of America. The FAECT had many collective-bargaining contracts with the most important defense industries in the United States, including our Navy yards.

Today, Marcel Scherer, UE representative, is an instructor in two Communist Party training schools, the Jefferson School of Social Science and the George Washington Carver School. He has contributed articles to the Communist Party's New Masses, and he has been affiliated with the following Communist-front organizations: American Peace Mobilization, American Relief Ship for Spain, Campus Peace Strikes, Council for Pan-American Democracy, Coordinating Committee to Lift the Embargo, International Labor Defense, and North American Spanish Aid Committee.

(See also testimony of Paul Crouch regarding Marcel Scherer, before the Committee on Un-American Activities, U. S. House of Representatives, May 24, 1949.)

William Sentner, UE international vice president, president UE District 8, delegate to 1947 and 1948 UE conventions

Although one of the highest officials in the UERMWA, William Sentner has never been an electrical, a radio, or a machine worker. He studied architecture in Washington University in St. Louis, but never completed his studies. As an artist, he joined the John Reed Club, a Communist-front organization named after one of the founders of the American Communist Party, and became one of the club's national officers. He also spent some time at sea. In other words, Sentner owes his present strategic union post in a key industry to the operations of the Communist Party's patronage machine and not to any experience or special qualifications in this field of industry.

Sentner was classified as 1-A by his local draft board, but he was given deferment at the request of the UERMWA. Moreover, he was selected as a member of the National War Labor Board for Region No. 7 (Missouri) on February 17, and he was forced to resign on February 10, 1944.

It is unnecessary to prove by documentary evidence that William Sentner is a member of the Communist Party. He admits it. He is proud of it. He has held a number of official positions in the Communist Party since 1934. "When I joined [the Communist Party]," he declared in an interview published in Fortune magazine of November 1943, "I told everybody in town." He told Fortune that he still solicits new Communist Party members, although he devotes most of his time to union activities.

Sentner has been arrested on numerous occasions. In 1938, he was tried and found guilty of criminal syndicalism in connection with the Maytag strike at Newton, Iowa. He was sentenced to 10 years in jail and a fine of $5,000. When the Iowa criminal syndicalism law was found unconstitutional, he was released.

At the present time, Sentner is on the National Wallace-for-President Committee.

Sentner has been affiliated with the following Communist-front organizations:

American League for Peace and Democracy.
Citizens Committee to Free Earl Browder.
Civil Rights Congress.
Committee to Sponsor the Daily Worker and the Worker 1945 Fund Campaign.
Commonwealth College.
International Labor Defense.
723 John Reed Club.
National Federation for Constitutional Liberties.
National Wallace for President Committee.
New Theatre League.
Scottsboro Defense Committee.

Harold Simon, former president, UE Local 1227

Up until 2 years ago, Harold Simon was a leading Communist Party functionary in the UERMWA. The Communist Party then promoted him to position on the New York State secretariat of the Communist Party. While still holding his position as president of UE Local 1227, Simon was a publicly avowed member of the Communist Party.

Simon was a speaker at the founding convention of the Communist Political Association in May 1944.

He had been affiliated with the Greek-American Council, a Communist-front organization which has been renamed the American Council for a Democratic Greece. (See bulletin of the organization, January 1946).

Adam Smith, vice president, UE Local 1119, Chicago

Adam Smith sent greetings to the Chicago Communist Party newspaper, the Chicago Star, for its May Day issue last year. (See Chicago Star, April 26, 1947).

Smith signed the Civil Rights Congress manifesto defending the Communist Party. (See The Worker, May 25, 1947).

Albert Smith, UE international representative, delegate to 1948 UE convention

Albert Smith was a signer of a statement in defense of the Communist Party which received a full-page spread at the height of the Communist sabotage strikes in the spring of 1941, during the period of the Stalin-Hitler pact. (See Daily Worker, March 5, 1941).

In 1942 Smith joined with other pro-Soviet UE leaders in demanding a "second front." This was a subject of considerable Communist Party agitation at the time. (See Daily Worker, July 26, 1942).

Smith signed a petition of the Citizens' Committee to Free Earl Browder. (See Daily Worker, January 25, 1942).

Alice Smith, vice president, UE District 11, delegate to 1947 and 1948 UE conventions

Alice Smith is an instructor in the Abraham Lincoln School, the Communist Party's training school in Chicago, an institution listed as subversive by Attorney General Clark.

She signed the Civil Rights Congress manifesto defending the Communist Party. (See Daily Worker, May 25, 1947).

At the present time she is a member of the national committee of the Progressive Party, the party of Henry A. Wallace and the Communists. (See Chicago Star, July 31, 1948).

Al Stearn, business agent, UE Local 430

Al Stearn was one of the 144 Communist leaders who publicly hailed the Daily Worker (Communist Party newspaper) on the occasion of its twentieth anniversary in January 1944.

It scarcely needs to be said that anyone who sponsors the Communist Party's newspaper, the Daily Worker and the Worker, is actively supporting the cause of communism. It makes little or no difference whether such a sponsor is a card-holding, dues-paying member of the Communist Party.

Stearn signed a statement of Jewish labor-union leaders defending the Soviet Government's execution of the Polish Socialist trade-unionists, Alter and Ehrlich. (See Daily Worker, March 25, 1943).

Under the auspices of the Civil Rights Congress, Stearn signed a manifesto defending the Communist Party. (See The Worker, May 25, 1947).

It is significant that Al Stearn was named chairman of the New York Trade Union Committee for Wallace and Taylor. (See Chicago Star, March 13, 1948).

Albert Stonkus, business agent, UE Local 475

Albert Stonkus was a member of the National Labor Committee Against War, an affiliate of the seditious American Peace Mobilization.

He was a member of the Committee for Jewish Writers and Artists, which defended the Soviet execution of the Polish trade-unionists, Alter and Ehrlich. (See Daily Worker, July 6, 1943).

724 He was also one of the 144 Communist CIO leaders who publicly hailed the Daily Worker on the occasion of its twentieth anniversary in January 1944.

He was a sponsor of the Consumers' National Federation, an organization described as a "transmission belt" by Earl Browder.

The Communist-front affiliations of Albert Stonkus go back more than a decade. He was a delegate to the American League Against War and Fascism, a front cited as subversive by Attorney General Clark last Saturday. (See Daily Worker, August 7, 1947).

Victor Teich, shop chairman, UE local 1227

Victor Teich was a member of the American Student Union's national executive committee, a Communist-front organization which operated in schools and colleges from coast to coast.

Teich publicly declared his support of Israel Amter for Governor of New York in 1942. Amter was the candidate of the Communist Party. (See Daily Worker, October 7, 1942.)

Ernest Thompson, delegate to 1947 UE convention

Ernest Thompson signed a manifesto of Negro leaders against outlawing the Communist Party. All of the signers were persons of substantial Communist-front records. (See press release, April 21, 1947.)

Thompson teaches at the George Washington Carver School, Communist Party training school in Harlem which Attorney General Clark has listed as subversive.

Thompson is a sponsor of the Negro Labor Victory Committee, also listed subversive by the Attorney General. (See letterhead, October 11, 1943.)

He has written for the Communist Party's New Masses. (See New Masses, August 7, 1945.)

He was a sponsor of the Win-the-Peace Conference, a Communist-controlled gathering held in Washington, D. C., in April 1946.

He was a delegate to the Citizens Emergency Conference for Interracial Unity, another Communist-front organization.

He signed a petition of the Citizens Committee to Free Earl Browder. (See Daily Worker, March 16, 1942.)

He signed the Civil Rights Congress statement denouncing the recent indictment of 12 national leaders of the Communist Party. (See Daily Worker, September 23, 1948.)

He is a sponsor of the newest Communist-front organization for Negroes, known as the First Line of Defense. (See the Worker, August 29, 1948.)

Nicholas Tomasetti, UE field organizer, delegate to 1947 and 1948 UE conventions

Nicholas Tomasetti was a signer of a petition of the American Committee for Democracy and Intellectual Freedom, a Communist-front organization.

Tomasetti was a sponsor of the American Peace Mobilization. (See program, April 5, 1941.)

Tomasetti signed a statement in defense of the Communist Party at the height of the Communist sabotage strikes during the period of the Stalin-Hitler pact. (See Daily Worker, March 5, 1941.)

Tomasetti was also affiliated with the Schappes Defense Committee. (See New York Times, October 9, 1944.) Morris Schappes was a Communist Party professor at New York University who had been convicted for perjury.

Jeffrey Van Clief, negotiator, UE Local 430, New York, delegate to 1947 and 1948 UE conventions

Jeffrey Van Clief has been identified as a member of the Communist Party in sworn testimony by James Conroy before the Committee on Un-American Activities of the House of Representatives.

UE Local 430 has bargaining relations with radio and radio-parts manufacturers covering 15,000 employees in New York City.

Philip Van Gelder, UE international representative, delegate to 1947 UE convention

Philip Van Gelder was one of the founders of the Industrial Union of Marine and Shipbuilding Workers of America (CIO). He was its secretary-treasurer until he was inducted into the armed services. When he came out of the Army, his old union defeated him for reelection to his former position in a bitter fight over the issues of communism. Van Gelder was thereupon promptly taken to the arms of the UERMWA as an international representative.

725 Van Gelder was a member of the Communist-controlled National Mooney Council of Action. (See Daily Worker, May 12, 1933.)

Van Gelder is a sponsor of the National Council of American-Soviet Friendship. (See letterhead, May 4, 1948.)

He was a sponsor of the Joint Anti-Fascist Refugee Committee. (See survey of work, March 11, 1942.)

He signed the Civil Rights Congress manifesto defending the Communist Party. (See The Worker, May 25, 1947.)

He also signed the Civil Rights Congress statement denouncing the recent indictment of 12 national leaders of the Communist Party. (See Daily Worker, September 23, 1948.)

Edward Washington, president, Local 1227, New York City, delegate to 1947 and 1948 UE conventions

Local 1227 of the UERMWA claims 3,500 members with contracts in 52 plants in Queens, Manhattan, and Brooklyn.

From a report in the Daily Worker, it is learned that Edward Washington got his job as a milling-machine operator largely through the efforts of the Negro Labor Victory Committee. This committee is a notorious Communist-front organization. (See Daily Worker, December 3, 1946.) It is also apparent that Washington rates very favorable publicity in the Communist Party's Daily Worker. This kind of publicity is usually reserved for the faithful members of the Communist Party.

Edward Washington is a member of the executive board of UE District Council Four. He was also a delegate to the 1947 UE convention and in that capacity, according to the Daily Worker, "helped rout the red-baiters * * *." The Daily Worker also stated that Washington was "proud that 'in our own UE' those who sought to 'discredit Communist unionists' had been defeated." This is sufficient to indicate quite clearly that Edward Washington is wholly on the side of the Communists.

According to the Daily Worker of March 5, 1947, Edward Washington was a member of the Provincial May Day Committee of 1947. This was the committee which made all preparations for the Communist Party's May Day parade and celebrations. Among the well-known Communist Party members on this committee were the following: Irving Potash, Louis Weinstock (member of the national committeee of the Communist Party), Nicholas Carnes, Rockwell Kent, Howard Fast, Joseph Winegrodsky, Audley Moore,

Local 1227 of the UERMWA and its officials have long been identified with the Communist Party. In fact, this local has been one of the most notoriously Communist-controlled units of the UERMWA. It is, therefore, not surprising that it should elect a man with Edward Washington's Communist record as its president.

The Daily Worker's reference to Washington as a "church leader" was just so much typical Communist double-talk.

Under the auspices of the Civil Rights Congress, a Communist front on Attorney General Clark's list of subsersives, Edward Washington signed a manifesto in defense of the Communist Party. (See the Worker, May 25, 1947.)

All of the foregoing constitutes cumulative evidence which leaves no doubt that Edward Washington is a Communist.

Robert Whisart, member, UE General Executive Board, secretary-treasurer, UE District 11

Robert Whisart was affiliated with the Citizens Committee to Free Earl Browder. (See Sunday Worker, January 25, 1942.)

Whisart sent greetings to the Daily Worker on the occasion of its twentieth anniversary. (See the Worker, January 9, 1944.)

Whisart was a signer of a petition of the National Federation for Constitutional Liberties in January 1943.

Tom Wright, managing editor, UE News

Tom Wright was a delegate to the convention of the American Peace Mobilization in April 1941. (See Daily Worker, May 2, 1941.)

At the convention of the APM, Wright signed a petition of the Citizens Committee to Free Earl Browder.

726 *Jack Young, secretary-treasurer, UE Local 1143, Minneapolis*

Jack Young was a member of the Minnesota State Committee to Free Earl Browder. (See Daily Worker, November 8, 1941.)

Young also signed a petition of the Citizens Committee to Free Earl Browder. (See Sunday Worker, January 25, 1942.)

Young signed a petition of the National Federation for Constitutional Liberties in January 1943.

Ruth Young, executive secretary, UE District 4, member, UE general executive board, delegate to 1947 and 1948 UE conventions

Ruth Young's married name is Mrs. Irving C. Velson, and, as such, she is a member of the New York State committee of the Communist Party. She occupies one of the most strategic positions in the UERMWA. Miss Young has been an avowed member of the Communist Party for many years.

Her Communist-front affiliations include the following:

(1) American Youth Congress—member of presiding committee of the New York State Model Legislature of Youth, January 28-30, 1938.

(2) Civil Rights Congress—signer of manifesto. (See The Worker, May 25, 1947.)

(3) Committee for Equal Justice for Mrs. Recy Taylor—sponsor.

(4) Committee to Sponsor the Daily Worker and the Worker 1945 Fund Campaign—member.

(5) Congress of American Women—vice chairman. (See The Worker, June 23, 1946.)

(6) International Women's Day—signer of greetings to the Soviet Union. (See Sunday Worker, March 8, 1942.)

(7) Jefferson School of Social Science—member of the board of trustees.

(8) National Council of American-Soviet Friendship—sponsor of the Committee of Women. (See Daily Worker, February 10, 1944.)

(9) National Wallace-for-President Committee—member. (See press release, March 23, 1948.)

(10) Schappes Defense Committee—sponsor. (See Daily Worker, October 18, 1941.)

(11) School for Democracy—lecturer. (See Daily Worker, January 21, 1942.)

(12) World Youth Congress—delegate.

Ruth Young was one of the speakers at the CIO Political Action Committee's New York conference of January 14-15, 1944. In February 1938, she signed a manifesto of the Young Communist League which read, in part, as follows: "Forward to build a strong and powerful Communist Party! Forward to the American October!"

The reference to "October" is to the Bolshevik Revolution of Russia. When Ruth Young was confronted at the 1941 convention of her union with the fact that she had signed this manifesto, she made no denial.

Perez Zagorin, UE international field organizer

There is overwhelming evidence that Perez Zagorin is a Communist.

Zagorin is an instructor in the Jefferson School of Social Science, the Communist Party's training school for Communist organizers, propagandists, and agitators.

Zagorin was affiliated with the Citizens Committee of the Upper West Side. This was a Communist-front organization which received extraordinary publicity in the Daily Worker. This committee was cited as subversive by At-

torney General Clark on September 25, 1948. (See Daily Worker, July 4, 1943.)

He is also affiliated with the Communist-front organization which is known as the People's Radio Foundation, also listed as subversive by Attorney General Clark.

On the occasion of the twentieth anniversary of the Communist Party's Daily Worker, Perez Zagorin was one of a large group of Communist leaders in the CIO who publicly hailed that seditious newspaper.

In December 1943, a Communist-front organization was set up to honor the former head of the Communist International, Georgi Dimitrov. Perez Zagorin was a member of this committee which was known as the Reichstag Fire Trial Anniversary Committee. (See New York Times, December 22, 1943.)

Zagorin has written for the Communist quarterly magazine, Science and Society. (See issues of summer 1945 and spring 1948.

727 *Jack S. Zucker, UE organizer, District 1, Baltimore*

For a number of years, Jack Zucker was national legislative representative of the United Shoe Workers of America (CIO), with headquarters in Washington, D. C. Both of the CIO unions, with which Zucker had been connected, are among the most clearly Communist-dominated in the entire CIO.

For many years Zucker has been known as a Communist. His public affiliations give substantial support to his reputation as a Communist. He has been affiliated with the following Communist-front organizations:

American Peace Mobilization.
Citizens Committee to Free Earl Browder.
Civil Rights Congress.
National Federation for Constitutional Liberties.
National Negro Congress.
Washington CIO Committee to Reinstate Helen Miller.
Washington Peace Mobilization.

Zucker was an active delegate to the American Peace Mobilization in New York April 5, 1941. This fact was established in sworn testimony before the Special Committee on Un-American Activities of the House of Representatives on May 21, 1941. This testimony established the fact that Zucker was a member of a "lobby committee" from Washington, D. C., at the meeting of the American Peace Mobilization in New York City.

At the meeting of the American Peace Mobilization, Zucker signed a petition of the Citizens Committee to Free Earl Browder. This petition and its list of signers were published in the Daily Worker of May 2, 1941.

In May 1947, Zucker signed a manifesto defending the Communist Party, under the auspices of the Civil Rights Congress. (See The Worker, May 25, 1947.) Last week, he was a member of a nine-man delegation to the White House, bearing a statement denouncing the recent indictment of 12 national Communist Party leaders. The statement was reported to have been signed by 1,100 labor union leaders, and was issued under the auspices of the Civil Rights Congress, an organization listed as subversive by Attorney General Clark. (See Daily Worker, September 23, 1948.)

[Stipulation Attachment No. 5 is printed above as Emspak Exhibit No. 13 at pp. 68-85.]

[Stipulation Attachment No. 6 is printed above as Emspak Exhibit No. 10 at pp. 57-60.]

745 **Stipulation Attachment No. 7**

UNITED STATES OF AMERICA

NATIONAL LABOR RELATIONS BOARD

AFFIDAVIT OF NONCOMMUNIST UNION OFFICER

(See instructions on reverse)

The undersigned, being duly sworn, deposes and says:

1. I am a responsible officer of the union named below.

2. I am not a member of the Communist Party or affiliated with such party.

3. I do not believe in, and I am not a member of nor do I support any organization that believes in or teaches, the overthrow of the United States Government by force or by any illegal or unconstitutional methods.

.....
(Full name of union, including local name and number)

.....
(Full name of national or international union of which it is an affiliate or constituent unit)

Signature .....
Address .....
(Street)
.....
(City and State)

(The notary public or other person authorized by law to administer oaths must fill in completely all blank spaces below.)

Subscribed and sworn to before me this ..... day of ..... 19.... A notary public or other person authorized by law to administer oaths and take acknowledgments in and for the county of ....., State of ..... My commission expires .....

.....
(Signature)

[SEAL]

WARNING.—The attention of persons filing this form with the Board is directed to Section 35 (A) of the criminal code, which provides that any person willfully making or causing to be made any false or fraudulent statements or representations in any matter within the jurisdiction of the Board shall be fined not more than $10,000 or imprisoned not more than 10 years, or both.

[Stipulation Attachment No. 8 is printed above as Emspak Exhibit No. 3 at pp. 41-42.]

[Stipulation Attachment No. 9 is printed above as Emspak Exhibit No. 2 at pp. 39-40.]

[fol. 352] IN THE UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 10,943

JULIUS EMSPAK, Appellant,

v.

UNITED STATES OF AMERICA, Appellee

Before: Stephens, Chief Judge, Edgerton, Clark, Wilbur K. Miller, Prettyman, Proctor, Bazelon, Fahy, and Washington, Circuit Judges, in Chambers

ORDER—Filed March 26, 1952

It is ordered by the Court sua sponte that the above-entitled case be, and it is hereby, set for rehearing in banc on such date as the business of the Court will permit.

Per Curiam.

[File endorsement omitted.]

[fol. 353] IN THE UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 10,943

JULIUS EMSPAK, Appellant

v.

UNITED STATES OF AMERICA, Appellee

Appeal from the United States District Court for the District of Columbia

Decided December 19, 1952

Mr. David Scribner, *pro hac vice*, by special leave of the court, with whom Mr. Allen Rosenberg was on the brief, for appellant.

Mr. Charles B. Murray, Assistant United States Attorney at the time of the argument, with whom Mr. George Morris

Fay, United States Attorney at the time the brief was filed, was on the brief, for appellee. Messrs. Charles M. Ireland, United States Attorney at the time of argument, and Joseph M. Howard, Assistant United States Attorney, also entered appearances on behalf of appellee.

Before Stephens, Chief Judge, and Edgerton, Clark, Wilbur K. Miller, Prettyman, Proctor, Bazelon, Fahy and Washington, Circuit Judges.

OPINION—Filed December 19, 1952

CLARK, Circuit Judge:

This appeal was first heard by a division of this court but subsequently, before a decision and opinion had been announced, the court, *sua sponte*, ordered rehearing *in banc*. [fol. 354] Appellant was indicted by a grand jury, tried without jury, and convicted of violating Section 192, Title 2, U. S. Code.[1] He was sentenced to imprisonment for a period of six months and to pay a fine of $500.00. This appeal follows.

In response to subpoena, appellant appeared before a one-man subcommittee of the Committee on Un-American Activities of the House of Representatives. The committee was investigating the general subject of infiltration of Communism into labor unions. During the course of the hearing, appellant was asked approximately two hundred thirty-nine questions, most of which he answered, but

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[1] The statute reads as follows: "Every person who having been summoned as a witness by the authority of either House of Congress to give testimony or to produce papers upon any matter under inquiry before either House, or any joint committee established by a joint or concurrent resolution of the two Houses of Congress, or any committee of either House of Congress, willfully makes default, or who, having appeared, refuses to answer any question pertinent to the question under inquiry, shall be deemed guilty of a misdemeanor, punishable by a fine of not more than $1,000 nor less than $100 and imprisonment in a common jail for not less than one month nor more than twelve months. As amended June 22, 1938, ch. 594, 52 Stat. 942."

there were sixty-eight questions which he refused to answer Appellant contends that at the time of his refusal to answ those questions, he asserted the privilege against se incrimination under the Fifth Amendment. In additi he advances certain other arguments which we will consi before addressing ourselves to an examination of the marks and events which took place at the hearing.

One argument advanced by appellant is that the low court erred in denying a hearing on appellant's moti challenging validity of the grand jury which indicted him The affidavits which he submitted to support his motion for hearing had as their sole basis the argument that govern- [fol. 355] ment employees on the grand jury were incapable of reaching an unbiased decision, and they did no more than assert existence of a "miasma of fear" so clearly rejected in the *Dennis* case. Without more, there was no ground upon which an order for hearing might be founded, and there was no error in the denial thereof. The Supreme Court has held that the mere fact of government employment does not result in an implication of bias on the part of a juror, and does not disqualify an individual from jury service. *United States* v. *Wood*, 299 U.S. 123, 57 S. Ct. 177 (1936); *Frazier* v. *United States*, 335 U.S. 497, 69 S. Ct. 201 (1948); *Dennis* v. *United States*, 339 U.S. 162, 70 S. Ct. 519 (1949).

As for appellant's contention that the prosecution failed to prove a material ingredient of the offense—a valid subcommittee—there is no justification whatsoever. The validity of the House Committee on Un-American Activities has been the subject of exhaustive examination and certainly by now conclusive determination. See *Josephson* v. *United States*, 165 F. 2d 82 (2nd Cir., 1947), *cert. denied* 333 U.S. 838, 68 S. Ct. 609 (1948); *Barsky* v. *United States*, 83 U.S. App. D.C. 127, 167 F. 2d 241, *cert. denied* 334 U.S. 843, 68 S. Ct. 1511 (1948); *Eisler* v. *United States*, 83 U.S. App. D.C. 315, 170 F. 2d 273 (1948); *Dennis* v. *United States*, 84 U.S. App. D.C. 31, 171 F. 2d 986 (1948), *aff'd.* 339 U.S. 162, 70 S. Ct. 519 (1950). The committee is authorized as a whole or by subcommittee to make investigations. 60 Stat. 812, 828. Appellant appeared before the subcommittee in response to subpoena and the record discloses that on the call to order the chairman identified the sub-

committee and recited the authority under which it was constituted. Appellant was present, accompanied by counsel. He heard the announcements of the chairman, and he made no objection to the chairman's sitting as a subcommittee of one. Not only is it clear from the record that the subcommittee was valid, the appellant may not now advance [fol. 356] an objection to it. In the *Bryan* case the Supreme Court was called upon to consider the failure of a recalcitrant witness to express at time of hearing any objection to the composition of the committee, and in its opinion the Court said: "To deny the committee the opportunity to consider the objection or remedy it is in itself a contempt of its authority and an obstruction of its processes." *United States* v. *Bryan*, 339 U.S. 323, 333, 70 S. Ct. 724, 731 (1950).

In his brief and in oral argument on appeal, appellant sought to remove himself from the operation of the statute by claiming that there could have been no contempt until after a question had been asked by the subcommittee, reply had been refused, and thereafter specific direction that the question be answered, with still another refusal. In other words, he argued that failure to answer the questions of the Congressional subcommittee was not of itself contempt, but rather that contempt would arise from refusal to comply with a specific Congressional order to answer. We cannot agree with appellant's proposition that there is an analogy between a committee of Congress and a grand jury. The grand jury is an appendage of the court, 24 Am. Jur., Grand Jury, §2, dependent upon the court to punish contumacious witnesses, whereas the contempt power of Congress is implied to both Houses from the inherent nature of the Congress, and "Congress was only implementing a conceded power when it enacted the statute providing punishment for contempt of [its] committees." See *Fields* v. *United States*, 82 U.S. App. D.C. 354, 356-357, 164 F. 2d 97, 99-100 (1947), *cert. denied* 332 U.S. 851, 68 S. Ct. 355 (1948). Any crime of contempt was complete when appellant refused to answer questions propounded by the subcommittee. *United States* ex rel., *Cunningham* v. *Mathues*, 50 F. 2d 411 (3rd Cir., 1930).

The Supreme Court has said that "The offense of contempt of Congress . . . matures only when the witness is

[fol. 357] called to appear before the committee to answer questions or produce documents and wilfully fails to do so." See *United States* v. *Bryan*, *supra*, at p. 341. But that does not mean that the witness appears before a committee of the Congress deprived of his legal rights or shorn of his constitutional privileges. A person summoned to appear before a Congressional committee may refuse to answer questions and submit to a court the correctness of his judgment in doing so, but a mistake of law is no defense, for he is bound rightly to construe the statute involved. *Townsend* v. *United States*, 68 U.S. App. D.C. 223, 95 F. 2d 352, *cert. denied* 303 U.S. 664, 58 S. Ct. 830 (1938).

This brings us to the primary argument advanced by appellant in this appeal. He has argued that at the time of his refusal to answer the questions of the sub-committee he asserted the privilege against self-incrimination under the Fifth Amendment.

The record discloses that appellant is an experienced, intelligent, and articulate individual who holds high executive position in a large labor union and who also serves as editor of the union's official publication. He was accompanied at the hearing by able and experienced counsel. His testimony shows him to be a man of strong opinions and clear and vigorous expression. These elements leave no doubt of his ability to say what he might mean, and, conversely, to mean what he might say.

At the start of the hearing, appellant answered questions concerning the union and its organization, officials and functions. He also answered later questions concerning access of union officers to defense plants. But when asked to identify certain persons, he lashed out at the committee, condemning its conduct in the past, and impugning its motives. Rather than draw about him the protecting mantle of the Fifth Amendment, in his sole reference to the Constitution the appellant stated: "Because of the hysteria, I think it is my duty to endeavor to protect the rights guaranteed under the Constitution, primarily the first amend-[fol. 358] ment, supplemented by the fifth. This committee will corrupt those rights." Later, on being asked if he felt answers to certain questions would subject him to criminal prosecution, he not only replied in the negative, but

he also added: "I don't think this committee has a right to pry into my associations. That is my position."

This court is well aware that the provisions of the Fifth Amendment must be accorded liberal construction in favor of the right it was intended to secure. *Hoffman* v. *United States*, 341 U.S. 479, 486, 71 S. Ct. 814, 818 (1951), and cases there cited. We are also aware that no magic formula of words must be precisely recited, as though a talisman, to assure the protection which the Amendment was intended to provide. However, there is no analogy between this situation and the circumstances involved in the *Hoffman* case, for in that case it was stipulated that the petitioner had declined to answer on the ground that his answers might tend to incriminate him of a federal offense, whereas the very question to be decided here is whether or not appellant adequately invoked the privilege. We find that he did not.

Affirmed.

PRETTYMAN, *Circuit Judge*, with whom STEPHENS, *Chief Judge*, and WASHINGTON, *Circuit Judge*, concur, concurring: The rule invoked by appellant in respect to the grand jury, as stated by him in his brief, is: "It is now settled that Government employees serving as Grand or Petit Jurors will be barred as a group for bias when circumstances are brought to the court's attention demonstrating that Government employees would not be suitable jurors in a particular case. *Dennis* v. *United States*, 339 U.S. 162." His reference to the *Dennis* case is actually a reference to the language used by Mr. Justice Reed in his concurring opinion. We assume for present purposes that the [fol. 359] concurring opinion is an accurate summation of the opinion of the Court. Under the rule as thus stated the question before us is whether circumstances were brought to the trial court's attention which demonstrated that Government employees would not be suitable grand jurors in the particular case.

This case rests upon an indictment which charges that the appellant refused to answer sixty-eight questions asked him by, or on behalf of, a subcommittee of a committee of the House of Representatives. Fifty-eight of those ques-

tions were whether appellant knew certain named persons and whether those persons were officials or representatives of a named labor organization; two were whether appellant had been affiliated with the National Federation for Constitutional Liberties and the Civil Rights Congress; and the remaining eight were whether the defendant had attended meetings of, was a member of, had paid dues to, etc., the Communist Party. Appellant's motion to dismiss the indictment and for other appropriate relief was upon twelve grounds, one of which related to the grand jury and was as follows:

> "10. The indictment is void and illegal in that there are less than 12 members of the Grand Jury which voted the indictment who were impartial and free from prejudice or bias against the defendant, and therefore as to this defendant the alleged Grand Jury was illegally constituted. The indictment should be dismissed or in the alternative the defendant should be granted a hearing at which he can offer proof that bias or prejudice existed on the part of more than 11 of the Grand Jurors."

Attached to the motion was an affidavit of appellant, in which he said that with respect to the questions referred to in the indictment he asserted his constitutional privilege against self-incrimination as well as his rights under the First Amendment. Also attached to the motion were two affidavits of counsel for the appellant, to the second of which [fol. 360] eight exhibits were attached, which affidavits and exhibits were alleged to show that due to the Loyalty Order and investigations being made pursuant thereto "a miasma of fear" had developed among Government employees in the District of Columbia which caused such employees to come reasonably to the conclusion that any action by them which could be considered sympathetic toward a person accused of an offense arising out of an investigation of Communist activities would endanger their Government employment.

Thus the circumstances brought to the court's attention included the fact that appellant was charged before the grand jury and in the indictment with refusing to answer

questions, and the fact that he in effect admitted that he had refused to answer the questions but asserted as a defense a legal justification for the refusal. Our legal procedure does not include provision for the presentation to a grand jury of matters of defense or justification. The problem before the trial court upon the motion to dismiss the indictment or for a hearing, therefore, did not present the question whether Government employees were suitable jurors to consider the validity of the claim to the privilege. The question was whether Government employees were suitable grand jurors to consider the charge that appellant had refused to answer certain questions. In respect to that charge the court was advised by the affidavit attached to the motion that the appellant had refused to answer the questions. Therefore the problem before the court was whether under these particular circumstances a general atmosphere of fear on the part of Government employees made them unsuitable grand jurors in respect to such charge in the light of statements made by appellant in the motion.

The ruling of the trial court was:

> "4. In the absence of a showing of actual bias on the part of the members of the Grand Jury due to their employment in the Government of the United States [fol. 361] or the Government of the District of Columbia, the indictment is not void. *United States* v. *Wood*, (1936) 299 U.S. 123; *Frazier* v. *United States*, (1948) 335 U.S. 497; *Dennis v. United States*, (1950) 339 U.S. 162. In a particular case Government employees serving as Grand or Petit Jurors might be barred for implied bias when circumstances are properly brought to the Court's attention which convince the Court that Government employees would not be suitable jurors. No such circumstances are present under the force of the present motion to dismiss, nor were any such circumstances indicated in defendant's proffer of proof in support of the motion for a hearing on the qualifications of the Grand Jurors."

We think that ruling was correct. We are here dealing with a grand jury, not a petit jury. No question was pre-

sented as to the constitution of the grand jury as such, or as to its ability to act upon other cases. No claim was made that any grand juror was biased against this appellant personally. We think that under the circumstances presented to the court there was no indication that Government employees would not be suitable grand jurors in respect of the charge which was before them in this particular case. The question before the court was limited to the suitability of this grand jury to act in this particular case. Other cases and other circumstances might present other problems.

We assume for the purposes of this opinion that an accused is entitled to an impartial grand jury, taking "impartiality" in this context to mean absence of bias in respect to the accused as a person and absence of bias in respect of the particular matter at hand. To state an exaggerated example: We suppose no one would contend that Government employees are unsuitable grand jurors in respect to a charge of armed robbery, even if the accused happened to be a Communist.

We repeat for emphasis that among the circumstances brought to the court's attention upon the motion were [fol. 362] (1) the fact that the charge before the grand jury was that appellant refused to answer certain questions and (2) the fact that appellant said that he had refused to answer those questions. Helpful, although not decisive, is the rule long ago stated by the Supreme Court, that "for such irregularities as do not prejudice the defendant he has no cause of complaint, and can take no exception."[1] This grand jury was not called upon to evaluate the probabilities of a doubtful *prima facie* case of a charge in a realm of opinion or controversy. And the court knew when it considered the motion that the appellant did not deny the basic fact of refusal but advanced a defense of justification. The function of the grand jury is merely to determine

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[1]Agnew v. United States, 165 U.S. 36, 41 L.Ed. 624, 17 S.Ct. 235 (1897). See also Medley v. United States, 81 U.S. App. D.C. 85, 155 F.2d 857 (1946), *cert. denied*, 328 U.S. 873, 90 L.Ed. 1642, 66 S.Ct. 1377 (1946); Romney v. United States, 83 U.S. App. D.C. 150, 167 F.2d 521 (1948) *cert. denied*, 334 U.S. 847, 92 L.Ed. 1771, 68 S. Ct. 1512 (1948).

whether the evidence before it, if unexplained, would justify a verdict of guilty. This grand jury did no more than to say in effect that appellant should be put to his defense. No circumstance was brought to the court's attention which demonstrated that this grand jury was unsuitable to take that action.

In respect to the applicable requirements upon a witness's refusal to answer a question, we add one further observation in view of the decision and opinion in No. 11081, *Quinn* v. *United States*, decided today. We there remand; we here affirm. But we remand there because the trial court erroneously, we think, held specifically that the defense offered by Quinn was not available to him as a matter of law. Reversal upon that ruling required a new trial. We made further observations designed to be helpful upon the trial thus required. In the present case there was no corresponding ruling of law. There was a general judgment of guilty by the judge without a jury. Our review [fol. 363] upon the point is limited to a determination whether the record contains sufficient evidence to support a finding that Emspak deliberately and intentionally refused to answer and thus to support that judgment. We find that it does. The evidence is ample that Emspak was made well aware that the Subcommittee desired answers to its questions despite the grounds he advanced for refusing. Hence we affirm. The point is discussed a little more at length in No. 11045, *Bart* v. *United States*, also decided today.

FAHY, *Circuit Judge*, concurring in part, dissenting in part: I concur with respect to the grand jury question and the validity of the subcommittee, but would grant a new trial so that the trier of the facts may apply the principles laid down today in No. 11081, *Quinn* v. *United States*.

BAZELTON, *Circuit Judge*, with whom EDGERTON, *Circuit Judge*, concurs, dissenting: The court affirms the ruling below that appellant did not invoke the privilege against self-incrimination under the Fifth Amendment. I do not reach that issue because, as the record shows, appellant did state some grounds,[1] not plainly frivolous, for his objection

[1] He at least claimed protection of First Amendment rights and lack of pertinency. J.A., p. 168.

to answering. Under the view I expressed in *Bart* and *Quinn*, there could be no valid conviction unless the trial court found "from all the circumstances that (1) the witness was clearly apprised * * * whether the grounds for his objection to answering were accepted or rejected, and that (2) if rejected, he was given another opportunity to answer."[2] Although Judge Clark's opinion alludes to this problem, it neither meets nor discusses it.[3]

[fol. 364] By agreeing with the Subcommittee chairman that appellant's "conduct disclosed a flagrant attitude toward the committee,"[4] the trial court did not avoid the necessity for determining whether or not the witness had been "clearly apprised." Concededly the record reveals matters which might be said to reflect an adverse ruling by the Committee on the appellant's objections.[5] But these matters are not conclusive. And we should not on appeal invoke our judgment to resolve a factual conflict on an essential element of the crime—namely, intent to violate the statute.[6] That is the function, in the first instance, of the court below. Since I am not convinced from an examination of the entire record that the court below, sitting without a jury, took the correct view of the governing principles, I would reverse for a new trial.

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[2] Quinn v. United States, — U.S.App.D.C. —, — F.2d —, slip opinion, p. 25.

[3] Slip opinion, p. 4.

[4] J.A., p. 226.

[5] The indictment charges appellant with refusing to answer 68 questions in as many counts. After appellant stated the grounds for his objection to answering the question involved in Count 1, the following occurred:

"Mr. Tavenner [Committee counsel]. Your replies are a refusal to comply with the request to answer it?

(Witness confers with his counsel.)

"Mr. Moulder [Subcommittee chairman]. The record will reveal that you have not answered the question." *Hearings before the Committee on Un-American Activities*, 81st Cong., 1st Sess. 839-40 (1949).

[6] 11 STAT. 155 (1857), as amended, 52 STAT. 942 (1938) 2 U.S.C. § 192 (1946).

I would reverse and remand for an additional reason. The trial court erred in denying appellant's request for a hearing in connection with his attempt to show that Government employees were disqualified as grand jurors in this particular case. I have set forth the reasons for this view in *Quinn* v. *United States*,[7] decided today, where the same issue arose under identical circumstances.

[File endorsement omitted.]

[fol. 365-366] IN THE UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 10,943

JULIUS EMSPAK, Appellant,

v.

UNITED STATES OF AMERICA, Appellee

Appeal from the United States District Court for the District of Columbia.

Before: Stephens, Chief Judge, and Edgerton, Clark, Wilbur K. Miller, Prettyman, Proctor, Bazelon, Fahy, and Washington, Circuit Judges

JUDGMENT—Filed December 19, 1952

This cause came on to be heard on the record from the United States District Court for the District of Columbia, and was argued by counsel.

On consideration whereof, It is ordered and adjudged by this Court that the judgment of the said District Court appealed from in this cause be, and the same is hereby, affirmed.

Per Circuit Judge Clark.

Dated: December 19, 1952.

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[7] — U.S.App.D.C. —, — F.2d —.

Separate concurring opinion by Circuit Judge Prettyman, with whom Chief Judge Stephens and Circuit Judge Washington, concur.

Separate opinion by Circuit Judge Fahy, concurring in part and dissenting in part.

Dissenting opinion by Circuit Judge Bazelon, with whom Circuit Judge Edgerton concurs.

[File endorsement omitted.]

[fol. 367] [File endorsement omitted]

IN THE UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA CIRCUIT

[Title omitted]

PETITION FOR REHEARING—Filed January 3, 1953

To the Honorable Judges of the United States Court of Appeals for the District of Columbia Circuit en banc:

Appellant respectfully petitions this Court for a rehearing of its decision and opinions of December 19, 1952 affirming the judgment of conviction of the District Court in this proceeding.

I

Statement

This appeal was originally argued before a Division of this Court on October 5, 1951. Several months thereafter this Court, *sua sponte*, ordered the appeal set for reargument before the Court *en banc*. Argument was heard pursuant to this order. On December 19, this Court sitting *en banc* filed its opinions, three judges affirming, three judges concurring, one judge concurring in part and dissenting in part, and two judges dissenting.

[fol. 368] We do not propose in this petition for rehearing to reargue or restate the fundamental issues which have been argued in full before the Court *en banc* and which have been before this Court for its consideration

for many months. We will address ourselves in this petition primarily to certain problems suggested by the concurring opinions of Judges Prettyman, Washington and Stephens, which require we believe further argument and rehearing by the Court.

II

The concurring opinions of Judges Prettyman, Washington and Chief Judge Stephens require a rehearing on the issue of the denial of appellant's motion for a hearing on the challenge to the validity of the Grand Jury.

As a threshold issue in this appeal, as well as in the companion *Quinn* case, appellant has argued that the lower court erred in denying a hearing on appellant's motion challenging the validity of the grand jury which indicted him.

Judges Clark, Miller and Proctor have held that the offer of proof submitted by appellant "did no more than assert existence of a 'miasma of fear' so clearly rejected in the *Dennis* case" (Opinion, p. 3). These Judges conclude that "without more, there was no ground upon which an order for hearing might be founded and there was no error in the denial thereof" (Opinion, p. 3). We wish to point out that no reading of the *Dennis* case, majority or concurring opinion, can support an assumption that the Supreme Court there "clearly rejected" an asserted existence of a "miasma of fear". The *Dennis* majority, let alone the concurring opinion of Mr. Justice Reed, clearly states:

> "As far as it appears, the court was willing to consider any evidence which would indicate that investigatory agencies of the Government had recognized in the past or would take cognizance in the future of a vote of acquittal, but no such proof was made. [fol. 369] Nor was there evidence of a climate of opinion among Government employees that they would jeopardize their tenure or provide investigation by such a verdict."

Appellant specifically and in detail offered to prove the very propositions which the Supreme Court set forth in the *Dennis* majority. Refusal to permit the appellant to adduce such evidence is in complete conflict with *Dennis*.

The concurring Judges Prettyman, Washington and Chief Judge Stephens do not read the *Dennis* case as do Judges Clark, Miller and Proctor. These members of the Court assume for the purposes of this case that the concurring opinion of Mr. Justice Reed in *Dennis* is "an accurate summation of the opinion of the Court" and summarize the rule of *Dennis* in the following manner: "The question before us is whether circumstances were brought to the trial court's attention which demonstrated that government employees would not be suitable grand jurors in the particular case."

The concurring Judges therefore have not rejected appellant's contention that the rule of *Dennis* permits the defendant in a criminal proceeding to challenge the indicting grand jury by offering evidence tending to show that a "miasma of fear" had "developed among government employees in the District of Columbia which caused such employees to come reasonably to the conclusion that any action by them which could be considered sympathetic toward the person accused of offenses arising out of the investigation of Communist activities would endanger their government employment" (Opinion, p. 8). The concurring Judges we wish to emphasize do not hold that appellant's offer of proof is insufficient in law. To the contrary, they indicate that such an offer might be sufficient in "other cases and other circumstances" (Opinion, p. 9).

The concurring members of the Court base their affirmance here on the assumption that in this particular case there was no area of discretion for the grand jury. They emphasize that the following circumstances were "brought to the Court's attention" upon the motion:

> [fol. 370] "1. The fact that the charge before the Grand Jury was that appellant refused to answer certain questions, and (2) the fact that appellant said he had refused to answer this question" (Opinion, p. 10).

These Judges conclude, as a result of these two circumstances, that this grand jury was not called upon to evaluate the probabilities of a "doubtful *prima facie* case or of a charge in the realm of opinion or controversy" (Opinion,

p. 10). The concurring Judges conclude that since the only contested issue before the grand jury was the claim of constitutional privilege and that since this was a matter of "defense of justification" (Opinion, p. 10), the grand jury could do nothing under these circumstances except indict.

We suggest that this conclusion of Judges Prettyman, Washington and Chief Judge Stephens joined in by Judge Fahy in his concurring in part, dissenting in part opinion * is in conflict with their own opinions in *Quinn* v. *United States*, decided concurrently.

In *Quinn*, Judges Prettyman, Washington and Chief Judge Stephens hold that "the deliberate and intentional character of the refusal is an element of the offense to be determined from all the circumstances by the trier of the facts" (Quinn opinion, p. 9) and point out in amplification that "to constitute an offense, refusal to answer must be intentional" and that "it must appear that [defendant] was aware of the intention of his inquirer that the answers were required despite his objections" (Quinn opinion, pp. 9, 10). We assume, for the purposes of this petition, that the discussion of Judges Prettyman, Washington and Chief Judge Stephens represents the opinion of the Court on the question of "direction." To hold that a "*prima facie*" case of violation of the statute is present, a grand jury must therefore consider whether it appears from the evidence that the witness "was aware of the intention of his inquirer that answers were required despite his objections." This Court now holds that this is not a matter of "defense of justification", but rather "*an element of the offense.*" [fol. 371] Thus this is an issue which the grand jury would have had to consider in deciding whether there was a "*prima facie*" case of violation of statute.*

* See also Judge Fahy's concurrence in *Quinn*.

* This is not an issue which the defendant ever conceded in any affidavits or statements to the trial court on the motion challenging the grand jury. We do not understand that the Court assumes any such concessions. Quite to the contrary, the record clearly reveals that the appellant has consistently urged from the beginning of the proceeding that in fact he was not made aware of "the intention of his inquirer that answers were required despite his objections."

We suggest therefore, that the opinion of Judges Prettyman, Washington and Chief Judge Stephens on the decisive issue of the "deliberate and intentional character of the refusal" as an element of the offense indicates on its face that there was in fact an area of discretion before the grand jury. The grand jury might have concluded on the basis of the record that the appellant was not "aware of the intention of his inquirer that answers were required despite his objections". That this was a reasonably possible conclusion for an impartial trier to arrive at is evidenced by the remand in *Quinn* which instructs the trial court to consider this very point.

We urge therefore, that Judges Prettyman, Washington and Chief Judge Stephens, in light of their own opinion in this case and in *Quinn*, consider a rehearing and re-argument on this issue. If awareness of the intention of the inquirer that answers were required despite objections is a material ingredient of the offense, appellant was entitled in justice and fairness to the deliberations of an impartial grand jury on this issue. We suggest therefore to the Court that re-argument and rehearing should be granted on this point.

III

The opinion of the concurring Judges on the issue of "direction" requires the granting of the petition for a rehearing.

We suggest that the opinion of Judges Prettyman, Washington and Chief Judge Stephens in *Quinn*, decided concur- [fol. 372] rently with this case concerning the applicable rule to be followed by the District Court on retrial on the issue of "direction" requires a rehearing and reconsideration of the decision in *Emspak*. In *Quinn*, Judges Prettyman, Washington and Chief Judge Stephens held that "to constitute an offense, refusal to answer must be intentional" and that "it must appear that the [witness] was aware of the intention of his inquirer that answers were required despite his objections" (Quinn opinion, p. 9). These Judges conclude that "the deliberate and intentional character of the refusal is an element of the offense to be determined from all the circumstances by the trier of the facts" (Quinn opinion, p. 10). We suggest, that this rule of law laid

down in remanding *Quinn* requires a rehearing of the decision in *Emspak* and in particular a reconsideration of the question by the concurring members of the Court.

An examination of the record of the proceedings in *Emspak* reveals that the trial judge in no way considered or applied this guiding rule of law. The opinion of the trial judge demonstrates beyond any doubt that the trial judge did not apply this rule. The trial judge was under the impression that a mere refusal to answer was sufficient to constitute an offense under the statute. The trial judge did not inquire as to whether it appeared that the appellant "was aware of the intention of his inquirer that answers were required despite his objections." We do not understand how a "general verdict of guilty" erases the obligation of this Court to remand with instructions to apply the correct rule of law.

The opinion of the trial judge in enunciating the principles which he has followed in arriving at the verdict of guilty should not be disregarded by this Court. If the trial had been by jury, the instructions of the judge would have required reversal and remand on this issue. Since the trial was without jury, the opinion of the judge stands as his own expressions of the principles which guided him in arriving at the verdict. While in this opinion the trial [fol. 373] judge made a series of findings on what he considered to be the essential ingredients of the offense, he did *not* make a finding that the appellant "was aware of the intention of his inquirer that answers were required despite his objections." The issue is not whether there is any evidence in the record which could have supported such a finding by the trial judge. The fact of the matter is that the trial judge made no such finding; he never considered the issue. Appellant is entitled, as this Court points out in *Quinn*, to a trial on all of the material elements of the offense by the trier of the facts and not by an appellate court. And he must be acquitted by the trier of the facts unless *all* the material elements are found against him beyond a reasonable doubt.

We suggest, therefore, that the concurring Judges should reconsider their refusal to remand in *Emspak* on this issue in light of the failure of the trial judge to apply the proper rule of law as laid down by this Court in *Quinn*. The ques-

tion as to whether there is sufficient evidence in the record to support a finding by the trial court is pertinent only when the trial court applies the correct principles of law and makes the initial finding. The fact of the matter is that this trial court never even considered the question. It should therefore be determined, as this Court points out in *Quinn*, as a matter of first instance by the trier of the facts.*

[fol. 374] Conclusion

Appellant respectfully submits that the petition for rehearing should be granted.

David Scribner, 11 East 51st Street, New York 22, N. Y. Allan R. Rosenberg, 10 Tremont Street, Boston 8, Mass., Attorneys for Appellant.

Of Counsel: David Scribner, Donner, Kinoy & Perlin, by Arthur Kinoy.

Dated: January 2, 1953.

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* We suggest that the observations of Judges Prettyman, Washington and Chief Judge Stephens in *Quinn* are particularly appropriate on this issue in Emspak:

> "But when a defendant waives trial by jury he does not thereby consent to a determination of his guilt or innocence by an appellate court. * * * Were this court to affirm the conviction on a finding not considered below, the defendant would in effect be deprived of that right [right of appeal], for our finding, in the first instance, on the main issue, would be subject to review only on the grant of *certiorari* by the Supreme Court" (Quinn opinion, p. 9).

[fol. 375] [File endorsement omitted]

IN THE UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA CIRCUIT

[Title omitted]

Before Stephens, Chief Judge, and Edgerton, Clark, Wilbur K. Miller, Prettyman, Proctor, Bazelon, Fahy, and Washington, Circuit Judges, in Chambers.

ORDER—Filed April 13, 1953

Upon consideration of applicant's petition for a rehearing en banc herein, it is

Ordered by the Court that said petition be, and it is hereby, denied.

Per Curiam.

Chief Judge Stephens did not participate in the foregoing action.

[fol. 376] Designation of record (omitted in printing).

[fols. 377-378] Clerk's Certificate to foregoing transcript omitted in printing.

[fol. 379] SUPREME COURT OF THE UNITED STATES, OCTOBER TERM, 1953

No. 67

[Title omitted]

ORDER ALLOWING CERTIORARI—Filed October 12, 1953

The petition herein for a writ of certiorari to the United States Court of Appeals for the District of Columbia Circuit is granted, except as to question No. 4 presented by the petition for the writ.

And it is further ordered that the duly certified copy of the transcript of the proceedings below which accompanied the petition shall be treated as though filed in response to such writ.

The Chief Justice took no part in the consideration or decision of this application.

(1204)